THE TRAVANCORE DEBT RELIEF BILL.

Mr. Puthupally S. Krishna Pillai : Sir, I beg to move that the Travancore Debt Relief Bill as passed by the Assembly be taken into consideration.

Mr. C. V. Chandrasekharan : I second it.

Mr. Puthupally S. Krishna Pillai : I may be permitted to offer a few remarks relating to the general principles underlying the Bill.

President : Order, order. When was this Bill passed in the other House, Mr. Secretary?

Secretary : About two weeks back.

President : Amendments relating to this Bill have all been printed and circulated to the honourable members. I find that we are still getting long lists of amendments. The House will have to decide whether those amendments can be allowed to be moved. I do not think the Secretary has time enough to print them. Some of them have been received now. So I think the honourable members who gave notice of amendments so late may have to suffer for their default.

Mr. M. K. Ananthasiva Aiyar (*Nominated*) : Sir, I sent some amendments on Sunday last by Anchal. It seems they have not been received by the Secretary?

President : How is this House responsible for it? This House, technically, has nothing to do with it. Perhaps, it may be a complaint with regard to the Anchal Department.

Mr. Kochikal P. Balakrishnan Tampi (*Karunagapally, Kartikapally and Ambalapuzha* cum *Shertallai*) : Sir, I would suggest that this Bill may be taken up some two or three days hence so that the members can informally meet and persuade those who have sent up the amendments to withdraw them so as to facilitate the easy passing of this Bill.

President : This House has met here with the full knowledge that the only important item of business will be those with regard to the Debt Relief Bill and certain amendments have been received. There is no paucity of amendments. I find a good number of them. If the honourable House, for the purpose of convenience, want that the amendments which have reached the Secretary last evening or this morning should also be considered and for that purpose want to give time so that they may be printed and circulated, I have no objection. I am entirely in the hands of

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the House. Speaking for myself, I do not think that a case can be made out for any postponement. The whole thing has been discussed in the other House. Technically, this House is not supposed to know what has taken place in the other House. But the honourable members read the newspapers and in reality are aware of what is taking place in the other house. In any case, I am prepared to abide by the wishes of the House. In that case somebody will have to bring forward a formal motion.

Mr. Puthupally S. Krishna Pillai: Sir, I may be permitted to say that there can be no delay in that matter. We have only a few days and we have to proceed with the budget. There is no day available until the 31st which could be devoted for this purpose, and the suggestion that it may be taken up after three days could not be accepted.

President: I take it that the suggestion is that the Bill may be taken up two or three days later. I have given certain rulings that during the budget time no other business can be transacted. That is, until the 14th budget proceedings will go on and the 15th is set apart for non-official business, so that the earliest is the 1st of Chingom which is a holiday.

Mr. Puthupally S. Krishna Pillai: Sir, there is the further difficulty. Some of the provisions of the Agriculturist's Relief Act are to expire by the 31st Karkadagom.

President: Those arguments are all right. But what about the question of time for proceeding with the amendments?

Mr. Puthupally S. Krishna Pillai: Sir, I am only bringing to the notice of the House these matters because it may be probably suggested that the honourable members may meet after 7 o'clock in the night to discuss the Bill as was done by the honourable members of the Assembly. I know that it will be of much inconvenience to the honourable members as was the experience of the honourable members of the other House.

President: But I think after one or two night sittings they will pass the Bill quickly.

Mr. Puthupally S. Krishna Pillai: Sir, that may be possible, but even that would be difficult.

President: The only thing that can be thought of at present is, if the honourable members want to give other honourable members adequate time for the consideration of the amendments, whether we might meet after lunch and go on continuing with the Bill until we finish the business.

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Mr. Kottur Kunjukrishna Pillai (*Quilon* cum *Kunnathur*): Sir, I wish to say something about this. I do not see that there is any necessity for deviating from the ordinary course of business. None of the possible amendments that may come up will be quite strange to any of the honourable members of this House and there is no point in saying that there is necessity for mutual consultation for the amicable settlement with regard to the withdrawal of amendments. That can be done in the ordinary course of discussion. It will not conduce to the speedy passing of this legislation by postponing the date for the actual consideration of the amendment. If the honourable member who suggested it desired that by that method there will be a possibility of the speedier passing of this measure, I think that would not be achieved; but only the opposite of it would be the effect as it will only duplicate the work. I think, considering the fact that all these amendments are familiar to honourable members we can proceed with the Bill in the usual course. With regard to those amendments which were not sent in time, if the Chair thinks that they can be moved it can be done so.

President: But I must draw the attention of the honourable members to the fact that this is not an ordinary Bill in regard to which the amendments of clauses should not be regarded as immaterial. This is a Bill which has got great implications and much depends on the wording of its clauses. So I cannot possibly look into the amendments off-hand to see whether I should or should not allow a certain amendment. Moreover none of those amendments can be printed and placed before the House. Secretary, have you got any of them printed?

Secretary: A few have been printed, Sir.

President: That is the difficulty.

Mr. Kottur Kunjukrishna Pillai: If that is so, Sir the honourable members must take the risk for not sending the amendment in time. Sir, I must here voice the definite opinion of the people outside that somehow this Bill should become law as early as possible. Many people suggest that it must be passed this week and published in a Gazette Extraordinary. Delay means very great complications in many cases that are pending in Courts. Great difficulties are experienced by individual debtors. The necessity of the moment is the expeditious passing of the Bill. Therefore I do not endorse the view that a special time should be allotted for this Bill. But I am of the view that it should go on with the usual course of business.

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President : The question before the House is whether the House should postpone the consideration of the Bill.

The question was put to vote and lost.

Mr. N. Krishna Aiyar (*Vaikom, Kottayam and Changanacherry* cum *Peermade*): Sir, I am opposing the motion for consideration. In opposing it I am constrained to point out certain salient features which affect the country fundamentally. It appears, and it is evident on a perusal of the sections that the Bill itself has been drafted on fundamentally wrong principles, and as it passed from stage to stage it became worse and worse and it has now become as bad as bad could be.

The first ground on which I oppose this measure is that it is an expropriatory measure.

Mr. Puthupally S. Krishna Pillai : Sir, on a point of order. The occasion on which any member could speak on the merits of the Bill has passed. We are now concerned with the amendments. The honourable member, I submit, should confine himself to the amendments standing on the agenda.

President : Order, order. The motion before the House is that the Bill as passed by the other House be considered, and the honourable member is opposing it.

Mr. N. Krishna Aiyar : I think, Sir, I am in order.

President : The other motion to give time for consideration has not been adopted.

Mr. Kochikal P. Balakrishnan Tampi : Is there anything extraordinary happening ?

President : What happened was this. The motion that the Bill be taken into consideration was moved and seconded. When it was moved and seconded Mr. Balakrishnan Tampi wanted to make a suggestion. I had no intention to postpone the consideration. Anyhow the motion for postponement was lost. Therefore Mr. Krishna Aiyar is in order in opposing the motion for consideration.

Mr. N. Krishna Aiyar : Sir, the first ground on which I oppose this measure is that it is expropriatory in character and is a piece of confiscatory legislation. It involves the element of re-distribution of property and introduces factors which are associated with socialism and communism. I am aware like any other honourable member, that the world is moving on socialistic tendencies and we are seeing elsewhere conflicts of social and political ideas and ideals. But politics, war and other matters apart, we are in Travancore at present blessed for living in a land ruled by a wise and sagacious Ruler and an able Administrator who have the interest of the country at heart.

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Mr. Kottur Kunjukrishna Pillai: Sir, on a point of order. The motion before the House is that the bill be taken into consideration. May I know whether in opposing that motion the honourable member can speak on the principles of the Bill or could advert to reasons why the consideration of the Bill should not be proceeded with?

President: The other House has passed the Bill. That Bill is before this House now. If, as I said a few minutes ago, the House has passed the motion to take this into consideration, then at once the question of taking clause by clause should arise. The point now to be decided and raised by the objection taken by Mr. Kottur Kunjukrishna Pillai is that at this stage it is not open to the honourable member to discuss the policy of the law. The honourable member can say now or at the third reading that the Bill is so bad that it should not be looked at and so on. Whether that right need be exercised now is a matter for the honourable member to judge.

Mr. N. Krishna Aiyar: Security of person and property is a fundamental right of every law abiding citizen who pays his taxes to his Sovereign and commits no crime. Irrespective of caste, colour, creed or occupation every subject of the State is entitled to be protected and his rights respected and safeguarded. It may be that the majority may be favouring one view and others who are in a minority may be of the opposite view. But the Government ought not to be influenced in their decision solely by the majority of numbers, because we all know that the majority is sometimes in the wrong and minority in the right. Therefore, it is all the more necessary for the Government to protect the interests of the minority especially when the voice of the majority attempts to oppress that of the minority. Perhaps, under extraordinary circumstances of 'catastrophical conditions' as remarked by the members of the Debt Relief Committee, certain expropriatory measures or confiscatory legislation may be justified. My submission is that such extraordinary circumstances or catastrophical conditions have not come to prevail in Travancore, though they may exist elsewhere. And therefore it is that I started by saying that it is the duty of Government to discountenance such measures.

President: At present, we are concerned with the stage at which legislative bodies could deliberate on the provisions of the Bill. And this Bill has been discussed at some length elsewhere. It is now before this House which as a legislative body is to deal with the matter. The attitude of Government does not arise now.

Mr. N. Krishna Aiyar: Sir, my object is to persuade the Government as well as the honourable members of this House to consider the situation in all its aspects.

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Mr. Puthupally S. Krishna Pillai: Sir, on a point of order. The matters referred to by the honourable member are irrelevant to the motion before the House. It is stated in paragraph 113 of the Council Manual as follows :—

> "On the day on which such motion is made or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions may be discussed, but details of the Bill must not be discussed further than is necessary to explain its principles ".

So, the discussion can range only round the principles of the Bill or its general provisions.

President: But what the honourable member is trying to show according to me, is that the Government was mistaken in having sponsored a Bill by enunciating those principles and equally wrong in continuing to accept those principles. I take it that is the idea of the honourable member. But at the same time any reference invoking the idea that the Government should or should not have taken a particular course of action with regard to this is not relevant at this stage. The honourable member may proceed on that basis.

Mr. N. Krishna Aiyar: I oppose this Bill next because it appears to be a class measure intended to benefit one class who call themselves debtors at the expense of another class called creditors. It has been well-known that there is no debtor class as such or a money lending class as such in Travancore. The major portion of the population is composed of agriculturists and we have only cases of one agriculturist helping another agriculturist in varying proportions according to their means and capacities. Such a measure for benefiting one class at the expense of another is sure to impair the harmonious working of the credit structure of the country and would dislocate the rural economic structure. For this reason also I oppose the Bill.

Thirdly, a perusal of the Bill as it stands would show that persons who really are intended and deserve to be benefitted are not going to be benefitted and persons who do not require or deserve protection or relief will be unduly benefitted.

Mr. T. K. Kittan: (*Vaikom, Kottayam and Changanacherry cum Peermade*) : സർ, ബഹുമാനപ്പെട്ട മെമ്പർ ഈ ബില്ലിനെ എതിർക്കുകയാണോ അതല്ല അമൻഡുമെന്റിനെപ്പറ്റി സംസാരിക്കുകയാണോ എന്നറിഞ്ഞാൽകൊള്ളാം.

President: At present, the honourable member is endeavouring to convince the House that this House should not take this Bill into consideration. In so doing he is entitled to assail the principles of the Bill from his point of view,

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Mr. N. Krishna Aiyar : It appears to be more a measure of penalty imposed on the creditors than one of relief afforded to the debtors. This is especially so, because the relief is indiscriminately distributed to those who ask for it as well as to those who do not demand it; to those who deserve relief as well as to those who do not require it. It is being thrust upon those who do not care for it. In the illuminating address of the Dewan-President on the occasion of the Joint Sitting of the two houses of the Legislature it was remarked "that the object and the aim of the Government is to help those who are really in need of help" and it was also pointed out that there has been much less agitation for relief from persons who are really hard hit on account of their liabilities than from persons who are not really hard hit.

One of the reasons for taking up such a measure is, probably, that similar enactments have been passed elsewhere, in other provinces and in the neighbouring state of Cochin. But a perusal of those enactments would show that the relief is intended to be granted only to the agriculturists and even among them, to agriculturists of limited means, to persons who have not much of non-agricultural income and to those whose main occupation is agriculture; these are various other restrictions also of which the members are well aware. Sir, you concluded your remarks on that occasion by saying "I do not want to hide from the honourable members of this House my personal opinion that a legislation of this kind should heep only the necessitous, the poor man, and not the rich man, who taking advantages of the credit which he had by virtue of his large assets entered into certain transaction, but was not able to make the profit which he bargained for". This statement was also commented upon by a leading article in the "Madras Mail". But a perusal of the present Bill would show that the principle of affording relief to the poor and the necessitous has been ignored and that it has been rather indiscriminately made applicable to all classes of people, rich and poor, without any regard to their income, or extend of their resources or capacity for repayment. If it was the object of the Bill to discourage lending entirely or to stop the business of lending in this land, it would have been easily said that all debts which have been incurred up-to-date should be deemed to be discharged (*Hear, hear*) and whoever lends hereafter shall be liable to punishment. With one stroke of the pen the whole process could have been finished and the problem of debt relief solved. Evidently, that is not the object of the Government, much less could it be the object of the people; because it is well known that if the free flow and exchange and interchange of capital is not allowed, no business worth the name, whether it be trade, industry or agriculture, could thrive or be carried on with any possibility of success. Therefore, in shaping

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or amending this Bills. as I may subsequently request the honourable members to divert their attention to this matter, I suggest that certain salient points such as the repaying capacity of the debtor, the extent of his resources, the extent of his liabilities and such other matters which may be taken into consideration with a view to afford relief to the deserving and at the same time without impairing credit altogether, should be carefully considered. I am sure that most of the honourable members, if they consider the matter seriously, will agree with me in this aspect of the question.

The fourth ground on which I oppose this measure is that the expropriatory provisions as they stand now are not supported by any compensation. Apart from the cutting or scaling down, there is no guarantee of repayment of even the reduced debt. I would refer the honourable members to page 96 of the Debt Relief Committee's report where the Land Revenue Commissioner has, in the course of his dissenting minute, observed that legislation should be equitable and that if the debts are to be scaled down some guarantee should be given to the creditor for the amount so reduced so that the reduced amount would be available to the creditor.....

Mr. Kottur Kunjukrishna Pillai : May I know whether in the present Bill before this House, all relief measures are given to persons if and only when they pay?

Mr. N. Krishna Aiyar : Yes. But my submission is that there is no guarantee. There is only a provision without any guarantee.

Mr. Kottur Kunjukrishna Pillai : If they do not pay, bill they get any relief ?

Mr. N. Krishna Aiyar : They can postpone payment. Their object is to postpone payment and then continue the agitation for other measures of relief.

My answer is that till now the recognised mode of discharge is by payment of the debt in money or in kind or by means of property. But the present method attempted is that by the process of agitation to get a piece of legislation to reduce the debt and continue the agitation again to enable the debtor to postpone or to make no payment at all.

Mr. Kochikal P. Balakrishnan Tampi : Sir, on a point of order. The honourable member is not only opposing the Bill but opposing the legislative processes in modern countries.

President : Undoubtedly yes. He says that this House, like other Houses, ought to be very careful. That is all,

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Mr. N. Krishna Aiyar: Therefore, any measure if it should be supported by good faith should be such that whatever be the amount reduced, that amount at least should be guaranteed to the creditor without any further effort on his part. It is possible to provide some means of repayment either through the agency of Government or through someother agency or aid, or patronage by the Government. But we find, in spite of the several methods of cutting the debt retrospectively and at present and for the future, that there is absolutely no guarantee for the creditor that he could get his money; and in spite of the long period provided to pay even the reduced amount the Bill is sadly lacking in any provision for tendering security. In Act III of 1112, the subsisting Act, which was passed for giving relief to the agriculturists, we find that there is a certain amount of scaling down of interest and a certain amount of facility to pay by instalments. But it was supported by a provision for furnishing security. Under that when the debtor was allowed to pay his debts in instalments he was asked to furnish security for the amount which he was to pay within a number of years. So, in that case there was some feeling that although he might not pay in cash, there was some possibility of recovering the amount out of the security, but this Bill is very sadly lacking in that provision. It is perhaps with a view to consider the possibility of liquidating liabilities after the reduction that a limit of Rs. 5,000 was suggested. Even the Dewan President in his address suggested the possibility of considering the question of limiting the scope of the Act to this amount, because it has been time and again pointed out by reference to the statistics contained in the Agricultural Debt Relief Committee's Report that over 95 per cent of the population have liabilities of only Rs. 5,000 and less and that they cover about two-thirds of the entire volume of the debt ; so that by limiting the scope of the Act to an upper limit of Rs. 5,000 the maximum relief could be afforded with the minimum injury—one of the salutary principles which ought to guide all legislative enactments. This principle is also accepted and pointed out by the honourable member Mr. Ramachandra Rao in his dissenting note, wherein he says "I would therefore suggest that the maximum limit for the working of the Act be fixed to

(*a*) an aggregate debt of Rs. 5,000 or
(*b*) ten thousand paras of paddy."

Now, that principle also has been entirely ignored.

Another ground on which I oppose this Bill is that it entirely ignores all sanctity of contracts even to the extent of cutting down the principal and setting at nought all decrees, customs, precedents,

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rules of law and practice and several laws now subsisting in the State, both substantive and procedural. Many sections commence with the clause "Notwithstanding anything contained in any law, custom, contract, decree, order of court," etc. The right vested under subsisting laws, whether substantive or precedural, are certainly sacred and are bound to be protected. They ought not to be so lightly disturbed. If vested rights are thus dislocated, people will ose confidence in the stability of the laws of the State. That is a very serious matter to be considered both by the Government and the people at large. Of course, in this connection, I would also refer to the dissenting note in which some of these points are raised by Mr. R. Sambasiva Aiyar. Since honourable members must have seen the dissenting note that he submitted to the Report of the Select Committee I do not wish to read it now. But let me be permitted to point out that from the publication of the Bill in the further stages, we find certain provisions engrafted on it which do not really fit in with the fundamentals on which the Bill is drawn.

One of the main points which appears to have guided the drafting of the Bill was that there should be no retrospective effect as such. There should be no room for re-calculation of accounts, of re-opening of transactions and dislocating present liabilities. So, a principle though heavy and drastic, but simple in its working, was adopted and the Bill as originally published was all-right so far as it was concerned, notwithstanding the question of percentage of the cut. But what we find in Section 11 is that there is a going back to sixteen years. This tries to abrogate Section 31 of the Civil Procedure Code passed in the year 1100. Vested rights, amounts due to several persons under several decrees passed by the Courts during the course of sixteen years, are now attempted to be re-opened by the provisions of the present Bill ; large sums of money are attempted to be cut down and the Bill itself has been vitally altered. There are several instances which on analysis would show that the amount advanced before several years would have to be received at even something less than the principal. I can mention a specific instance as an illustration. Though I do not want to mention the instance specifically, I can put it as an instance. For an amount under a transaction entered into as early as 1094, a suit for the principal and half the interest was filed in the year 1106, that is, when on the point of limitation of twelve years. It took two or three years for the original Court to pass the decree. An appeal was preferred in the High Court in 1108 and it is still pending there. If, according to the present enactment, Section 11 is made into law, it would be found that for the past ten or eleven years the decree-holder would be getting nothing by way of interest.

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[Mr. N. Krishna Iyer]

If we apply to that Section 9, there would be a further cut of thirty per cent. out of the amount which stood outstanding in the year 1104. The result is that the decree-holder would finally get barely the principal alone. Sir, after a period of twenty two years he succeeds in getting only the principal amount. That is the effect of the present law sought to be enforced. I have also instances in mind where decrees passed as early as 1084 have just now culminated in sale of the property involved in the decrees. So, if after the lapse of 31 or 32 years a re-calculation of interest is made, or the decree is re-opened and if in addition Sections 14 and 15 are also given effect to, the interest on the amount for the 32 years also will go. Such instances, I believe, may be numerous and if they are taken into account, honourable members, knowing as they do the great suffering attendant on litigation, would realise the hardship likely to be caused by these provisions. The decree holder has to undergo great many hardships the moment he enters into litigation; and for the delays and dilatoriness of our Courts for which he is not responsible, is he to be punished so hard? That is a question for the honourable members to consider. The Dewan-President in the course of his address also pointedly referred to the delays in the Courts and the dilatoriness in the matter of realising moneys in execution, so that by the delay which is normally caused by the dilatory attitude of the debtors, sometimes also by the remissness in the conduct of the cases and the delays attendant upon the absence of judges in the Courts, by all these put together, you will find what a colossal loss would accrue to the decree holder and what a tremendous amount of hardship would be caused to the creditor for absolutely no fault of his. After giving his money the creditor has to wait for a reasonable period and it is not uncommon that he waits till the last day of the period of limitation or till the interest accrues equal to half the principal. If he files a suit earlier, he is accused of having rushed to the Court. If on the last day of the limitation period he files a suit and obtains a decree thereon and begins to execute the decree, he is accused of harassing the debtor. If he waits and takes time or takes a renewal, he is accused of having allowed a small amount to swell into a large amount going beyond the repaying capacity of the debtor.

These are really too much for any reasonable creditor or for any reasonable man who is neither a debtor nor a creditor to swallow. Another aspect which I wish to bring before the House and about which amendments will be moved is the repaying capacity of the debtor. There are a number of persons whose assets far exceed their liabilities, but who either on account of certain emergencies or on account of a desire to increase their assets by starting a

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new business or to purchase new articles for their daily use or for luxuries have borrowed some amounts with the intention of repaying them and promising to repay them within a definite period. Owing to the feeling that immediate non-repayment may not seriously affect the creditor and also with the feeling that by rolling the borrowed capital he may be able to get more profit and will be able to pay more conveniently in the future without much effort on his part, such men might have postponed payment. Such persons are also now asked to pay only 7 0 per cent. For instance, there are officers of Government and other salaried persons who are getting their income in money. One of the reasons advanced for the reduction of debts is the steep fall in the price of agricultural commodities. As the Dewan-President very well pointed out this steep fall does not affect non-agricultural commodities or any person whose income is derrved in money. In fact they will be only benefited and will be able to make a larger surplus. There are several persons whose liabilities do not exceed their monthly income or yearly income. The relief proposed even asks them to pay only three-fourth or less of the amount they have received. This I feel is absolutely unfair and unreasonable.

Again I ask, what is the justification for reducing debts payable in kind? It is remarked that agricultural products record a steep decrease in prices during the past eight years. But if it is, for example, a loan of paddy lent at a time when the price of paddy is more than double of what it is now and if out of the proceeds of which the debtor can buy double the quantity now there is no meaning in asking him if he pays in kind to reduce the amount. That also passes my comprehension.

Then again, I come to the matter to trade debts. It is true that the price of articles purchased has been exempted from the operation of the Act, but it is well known that the man who trades is not a capitalist himself. We all know that in the majority of cases persons with business instincts but not having the required capital borrow the necessary capital from persons who lend them and utilise it for the trade. If he purchases an article and sells it, everybody knows that no trader will sell his goods for less than its cost price but he certainly sells it at a profit. In calculating that profit he takes into consideration the interest he has to pay to his creditor, his establishment charges and other dues he has to pay in connection with the business, and when he sells on credit he even charges interest on the price or raises the price a little more; so that he provides for repaying his debt in full. He will be selling a rupee worth of article for twenty annas or more. Now the Bill says that the person who enabled him to trade, who enabled him to

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[Mr. N. Krishna Aiyar.]

purchase the article worth one rupee for which he gets twenty annas need be paid back only 11 annas or 12 annas in a rupee. That is not only unsound but highly unjust and unfair and this will certainly tell upon the progress of trade and industry without which everybody knows no State can prosper. That is an aspect which has also to be remembered.

Then there are banking institutions. The Bill of course exclude from its operation such institutions only to a limited extent. There are private banks scattered all over the country who are performing very useful functions both in financing trade and industry and helping the agriculturists. The same privilege given to banks must be extended to them. There are also many indigenous bankers who are also carrying on a very useful occupation and who are making themselves useful in the matter of rural economy. They are sought to be mercilessly crushed. Even Joint Stock Banks of which we have only a limited number are granted exclusion under a very restrictive condition. The dividing line of escape is very narrow. Only those banks are entitled to protection if the interest charged in respect of its transactions is less than 9 per cent. A little more than that means that they will lose entire benefit. After all, they are carrying on business for the benefit of all, in the most lawful manner. And on the basis of such lawful transactions they have declared profits, distributed dividends, paid income tax and have made other commitments and embarked on other ventures. Now to say that all such transactions in which interest charged is greater than 9 per cent. will be outside the pale of exclusion is really striking at the root of banking enterprise in the land, especially at a time when there ought to be an expansion of credit and not a contraction of it.

I may also before concluding advert to one or two fundamental changes imposed on the Bill as they passed through the different stages. I have already alluded to the principle of avoidance of retrospective effect and re-calculation. Now clause 11 cuts at the root of it. Another exclusion which has been wisely made in the Bill is in respect of transactions entered into after twenty-third Dhanu 1112. Such transactions are entered into on the faith and confidence of existing laws within a period of three years with the full knowledge of the conditions and certainly with the belief that at least for some years to come it will not be upset. But by the introduction of a sub-clause to clause III some of the mischievous provisions of the Bill are made to nullify the effect of the principle. Clause 19 not only reduces the available assets for distribution to 75 per cent. but also creates a certain amount of conflict between creditors themselves. Till now even in the normal

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insolvency procedure, when a debtor is adjudicated an insolvent all his property will be placed in the hands of the Official Receiver and distributions will be made according to certain well recognised principles, under which secured creditors get a preference in proportion to their debts and the balance alone is distributed. Under clause 19 we find that after cutting 25 per cent and leaving it absolutely free to the debtor whatever be the unsatisfied amount in favour of creditors, there is still a conflict and fight between secured and unsecured creditors, preference for the secured creditors being cut down by 25 per cent. I can only say that it is absolutely unwarranted. The object of a legislation is to afford relief to debtors. But by disturbing the law of property and by disturbing the law of priority between the creditors *inter se*, the debtor is not benefited to any extent. So, new deviations are made which are not necessary for the purpose of relief to be given to the debtor, but which will also affect the fundamental principles on which this Bill is drafted.

Then as regards the effect of the Bill itself. It is admitted on all hands that the credit of a country, whatever be the methods adopted for affording relief and amelioration, whether for the distressed or for the needy or for all people in the realm, should not be entirely destroyed. The examples of the defects of the legislations passed elsewhere like Madras will show how the effects are much more harmful than originally intended. I may refer to page 320 of Mr. K. G. Sivaswamy's publication : "As in other provinces there has been a contracting of credit as a result of the Debt Relief Act of 1938. The effect of the Relief Act on the credit system is referred to in the replies to a questionnaire issued by the Madras Provincial Co-operative Union and published in its journal of December 1938, and is summarised below. The small holder or the uneconomic holder now agrees to an inflation of the principal of the loan to compensate for the loss created to the creditor by the legal rate of interest. The agriculturist who has excess lands, mortgages them with possession, thereby evading calculation of interest at the legal rate. Payment of interest in kind has been stipulated in certain cases."

My point is that it will not only destroy credit altogether but it will also lead to many fradulent acts.

President : Will you take some more time ?

Mr. N. Krishna Aiyar : I am just finishing.

President : You may take your own time. I do not want to cut short your argument.

Mr. N. Krishna Aiyar : I know and I am perfectly conscious of what reception my speech .....

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President : I was very anxious to avoid that remark. I am not in the slightest anxious to curtail the fullest discussion on the matter, especially when I know a minority point of view is put forward. I want to give it complete latitude, but it is only for the purpose of my own convenience I wanted to know whether the honourable member will take some more time. Then I have to be away elsewhere on business.

Mr. N. Krishna Aiyar : I am about to conclude.

Mr. Kochikal P. Balakrishnan Tampi: I rise to a point of order. The member has made a reflection on the House when he said that he knew what reception his speech would have on other members. He assumes that the fate of the Bill is a foregone conclusion. He does not use the courtesy enjoyed by him in the proper manner.

President : Evidently he has come to the conclusion that he is speaking for a minority, a conclusion which is not very violent and he proceeds on that basis. I do not think he intends any reflection.

Mr. N. Krishna Aiyar : Far from intending any reflection. I was only appealing to the House that the points may not be all useful for propagandists.

President : Order, order. I do not want any explanation

Mr. N. Krishna Aiyar : I have placed all the facts before the House so that if the honourable members will pause and consider, there are several vital points for sympathetic consideration and for impartial conclusions. I therefore beg leave to request. Government and the honourable members of the House not to press on with this Bill expeditiously but to revise, and recast this on sounder and more equitable principles and introduce a fresh Bill before this House itself as early as possible.

Mr. M. K. Ananthasiva Aiyar (*Nominated*): I also oppose the motion. In opposing the motion I should not be understood to be against a measure granting relief to debtors I am for the promulgation of such a measure as would give adequate relief to the debtors as early as possible. But any measure of relief granted to the debtor should not be in the nature of bringing injury or harm to other persons who are also equally important factors in the economic sphere of the Travancore State.

(At this stage the President vacated the chair which was then occupied by Mr. Kottoor Kunjukrishna Pillai, one of the Panel of Chairmen.)

I mean, Sir, the money lending person.

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Mr. Kochikal P. Balakrishnan Tami : Is the honourable member suggesting exchange of courtesies between the debtors and the creditors without harm to the debtors?

Mr. M. K. Ananthasiva Aiyar: No, no. One thing I have to point out first. That is that Travancore is not at all a rich country. It is a poor country. The fact that the smallest coin in the world is our one cash is sufficient testimony to the position that we are the poorest of nations in the whole world. The population also is increasing day by day. The number of unemployed men is also on the increase, so much so we have to see that the people of Travancore do become financially better without loss of time. I know that our Government and our able Dewan are trying their level best to see that both cottage and other factory industries are introduced in Travancore with the idea of raising the financial status of the people, with the idea of lessening the trouble of the unemployed in the State. But the passing of a legislative measure of this nature will seriously handicap the attainment of that object. Every industry, as the honourable member Mr. Krishna Aiyar pointed out, whether it is agriculture, trade, banking or any other, requires capital. Every industry or every business is being carried on with a certain object or to arrive at a certain ideal and that is to make a profit. This requires capital and it is not possible that all people in the State have funds in their possession so that they may invest safely on such enterprises and wait until their actions fructify. So, there should be somebody to lend money to these people and to get it back after waiting for a certain time. Thus, the moneylending profession has become a very useful profession in the economic structure of any State. To lend money to such people as want to enrich themselves by entering into professions, there should be some sort of confidence existing between the creditor and the borrower. This confidence is credit. But a legislation of the proposed sort will certainly tamper with the confidence which ought to exist between the debtor and the creditor. As early as the year 1108 or 1109 when the debt relief agitation was begun by a few disgruntled agitators whom I would call as emperors among debtors, people who were till then very prompt in repaying had begun to slack. They thought that some legislation by means of agitation would be coming in, in the State. As a result of these agitations certain proceedings were taken by Government. They issued an order for the stay of proceedings in civil courts. A Committee was appointed to enquire into the way in which relief should be given to agriculturists. Then Act III of 1112 was passed. All these proceedings have considerably shrunk the credit of the people of the State. I may say that we cannot afford to have any more proceedings of a like nature. So, at the earliest possible opportunity some measure should be brought in by which credit should not be disturbed. That is my view.

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[Mr. M. K. Ananthasiva Aiyar.]

Another point which I would bring to the notice of this House is that it has been admitted on all hands by the Agriculturists' Debt Relief Committee as well as the Debt Relief Enquiry Committee, that the depression began in the year 1105 though the dissenting members there said that it came to be felt only in the year 1107. The present Bill reduces the amounts that have been advanced during the years subsequent to 1107 and after the depression began. One of the reasons advanced for the reduction of the amount is the fall in the prices of agricultural produce. In the year 1107—1108 paddy was being sold at the rate of 7 or 8 chukrams per para and rubber was being sold at the rate of 1 anna or 1½ annas per pound.

But now the conditions are different. To-day the price of paddy is something like 13 chukrams per para and rubber is being sold at more than 8 annas per pound. So, to-day the conditions have improved considerably. So much so, there will be no justification for reducing any amount either by way of interest or by way of principal in the amounts that have been advanced subsequent to the year 1105 or 1107. The debtor has with open eyes borrowed the money, agreeing to pay a certain amount of interest and has agreed to repay the amount within a stipulated period. That was at a time when there was already a shrinkage of credit and when people began to distrust borrowers. At that time, say a certain man approached his neighbour for a loan of a certain sum and the neighbour knowing the difficulties of the man took pity upon him and lent him a certain sum. Now the debtor turns his back on him and says the bill is coming into law and I will not pay. I ask—Is it justice? Is it fair play? Is it becoming of the Sri Chitra State Council to deny that poor creditor, who has sold away his property to help his neighbour, the amount that he has advanced? I appeal to the honourable members of this House to consider this matter in all its seriousness.

I agree with Mr. Krishna Aiyar in saying that the relief, if any, should be extended only to those who deserve it. Sir, take the case of an officer of Government drawing Rs. 1,000 per mensem. He has borrowed of A, a sum of Rs. 500 for an urgent necessity, promising to repay it on the 1st of Chingom 1116, as soon as he receives his pay. Why should such a man be given the right to pay less? He is a man drawing a salary of Rs. 1,000 a month. He is a man of status and he can keep good his promise. He is a big officer in the State. So, seeing that there is absolutely no objection, A lends him Rs. 500. After getting the amount, when he is in a position to pay back the amount, when he has hard cash in his hands, when he puts in every month in the Anchal Savings

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Bank Rs. 500 or Rs. 700, he comes and seeks protection under the Debt Relief Act. Take another case, Sir. A certain gentleman wants his son to be sent for the I. C. S. Examination and borrows Rs. 5,000 from his neighbour. The son passes the I. C. S. examination creditably and comes out to India as a Deputy Collector and draws, say, Rs. 1,200 a month. Suppose the debtor says—for whatever purpose I have borrowed I am entitled to relief under the Act, should we not consider that he has derived a substantial benefit with the amount borrowed and that his son is drawing Rs. 1.200 a month or something more than that as Deputy Collector? Is he entitled to any relief? That is what I ask. Again when we consider the position of A, the person who gave the money—A may be a poor widow who may have sold all the properties she had inherited from her husband, just like Vriddhachalom's case and invested all the amount upon the I. C. S. man. Is it justic, to deny this poor woman the amount due to her from a person who deserves absolutely no sympathy from enlightened people like the honourable members of the Council?

Then I come to trade debts. Even though debts which represent the values of articles purchased have been excluded from the ambit of this Bill, I am of the opinion that all debts pertaining to trade should be completely excluded from the scope of this legislation. At present this is the difference. A purchases from me 100 paras of paddy for which he executes a pro-note in my favour for the value of the paddy purchased. That man is excluded from the ambit of this Bill. But if A comes and borrows Rs. 50 from me and at the same time takes that money to B and purchases paddy from him, though the whole amount has been utilised for the purchase of paddy, so far as the amount due to me is concerned, it will stand reduced under this Bill. Where is the justice in this? He has come to me for money because he was not in a position to purchase paddy on credit from the paddy seller. So I helped him. There are innumerable people in Travancore who carry on such small trades by getting small loans from their neighbours and it will be unjust if we deny the small creditors their hard earned money.

Then, the Bill, as introdnced by the Legal Remembrancer, has undergone wonderful changes at the hands of the other House. The changes that have been effected are so drastic that it is high time that Government should consider whether they should not take back the Bill and introduce some other Bill which will be more wholesome or recommend for a Royal Proclamation to be issued. The heading of the Bill itself ought to have been "A Bill for the improvement of the agrarian credit in Travancore." It will have been more appropriate if this was the heading.

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[Mr. M. K. Ananthasiva Aiyar.]

Our State has been giving protection to the debtors as far as possible. Any person who has to deal with the civil courts in Travancore, whether as a debtor or as a creditor, will certainly know that the Civil Courts in Travancore have been and are still as lenient as possible towards the debtors. When the people found that the prices of the articles produced in Travancore have gone down, they agitated and they got the Debt Relief Act of 1112. These are the kinds of protection so kindly afforded by our Government. But there is a limit even to such protection. All protection, if continued indefinitely, leads to irresponsibility and weakens what it protects. A child whose hand is always held will never learn to walk. So, it is high time that the Government asks these agitators to stop their agitation by enacting some legislation which will possibly bring in some definite provisions as to the settlement to be arrived at between the creditors and the debtors.

With regard to instalments. The Bill as it originated from the Assembly has changed considerably the number of instalments that was provided for in the original Bill. This will very seriously tell upon the finances of many people in the State. Many poor people will be ruined. It may be all right in the case of a gentleman like Mr. Krishna Aiyar who will have transactions with thousands of people. "*Aayiram makani arupathirandarai.*" He may get several small amounts which will swell into a very big amount. But what is the position of a poor creditor who is asked to receive his amount in small instalments covering 9 years and 10½ years, in case of default? Such a creditor will be ruined. So, I would appeal to the good sense of the honourable members of this House to consider whether such poor creditors do not deserve our sympathy, whether the big debtors who are able to stand on their own legs should be brought within the ambit of this Bill and whether the number of instalments should not be reduced.

Another radical change that has baen effected by the other House is Section 11 as it is now found in the Bill. As Mr. Krishna Aiyar has pointed out, it gives a death-blow to the creditor. As Mr. Krishna Aiyar has rightly pointed out, a certain man who got a hypothecation bond from a debtor waits for 12 or 15 years, as the case may be, until the document is about to become barred without getting a single pie by way of interest, files a suit for the principal amount plus interest not exceeding half the principal amount. The suit is being dragged on for 20 or 25 years. It is only very rare in Travancore that a suit is speedily disposed of. The debtors in the State are very clever—they are not illiterate and they are

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more literate than their creditors and it is not possible to dupe them—and many of these debtors take all the methods which they themselves know and which they get under advice, which advice is very cheap on account of the very large number of lawyers in our courts, to drag on the suit for an indefinitely long period. At last he obtains a decree.

Even when a decree is passed, is it right for us to say that a creditor should get only half the principal as interest from the date of the document until the date of the passing of the decree. An amendment to the Civil Pracedure Code which was once made, I beg to submit, was rightly made and by that a plaintiff is entitled to get another half of the principal from the date of the suit to the date of the decree. In such cases it will be very hard if we say that the decree-holder is not entitled to get any interest from the date of the plaint to the date of the decree. A drastic change has been brought about in that connection. Under these circumstances I submit to the honourable House that the Bill must be thrown out at this stage.

Mr. James Fletcher: Sir, the honourable members who spoke on the Bill have been finding fault with the various clauses in it. They all admit that some measure is required in Travancore to bring about relief for the debtors. But they did not agree with all the clauses in the Bill. To my mind, it is not at this juncture that they should speak of mistakes or defects about the various clauses. When we take up the Bill, clause by clause, such amendments can be introduced to effect necessary modifications if possible. Of course at the close of the speech they said that the Bill should be thrown out. Against that I raise my objection. So long ago as 1112 and earlier, it has been found that Travancore agriculturists as a whole had come to a stage when they were unable to pay their debts. Some remedial measures had to be made to aid them. A moratorium for six months was declared and later on the Agriculturists, Relief Act of 1112 was passed. All these show that some measure of relief is required for the people.

It may be asked why this Bill should include more than what was intended in 1112. Why should this Bill affect people other than agriculturists? Such questions are possible. In answer to that I have to submit this. It is found in Travancore that 90 or 95 per cent. of the population are agriculturists. What is done to the agriculturists will be more or less what is done to all people. There is no need for making a distinction because it is difficult to find out who is an agriculturist and who is not. This Bill includes everybody. After 1112 Government wanted to know how matters stood; a Committee was formed to enquire into the matter. The Committee gave a decision on the question whether a Bill is required or not, whether any law should be passed or not. They recommended a Bill containing certain provisions. We are at that stage now.

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[Mr. James Fletcher.]

A Bill which was introduced in ther othe House was very carefully considered and it was passed with certain amendments. The difficulty for every member of the Legislature is this. He cannot voice his own personal opinion in this matter. He has to represent his constituency and say what it feels in a Bill of this kind. Is it his own view, or is it the view of the constituency that has to be represented in this Council as a representative of the people? I know that my constituency wants a Bill of this sort, though personally I do not want it. Under the circumstances, I would submit that a Bill of this sort has to be passed. For a very long time the people are expecting some sort of settled law on the matter. No debtor cares to pay anything to the creditor now-a-days. The creditor does not know where he stands. Therefore, I would request that the Bill, which has been considered and passed in one House and which has been brought up in this House for consideration, may be taken up for due consideration and passed with whatever amendments the House is agreeable to. Therefore, I oppose the suggestio that the Bill should be thrown out.

Mr. Puthupally S. Krishna Pillai: Sir, I think that the honourable members who spoke against the principles contained in the Bill made reference to some of the provisions contained in it as drastic, revolutionary and bolshevik in tendency. One great fact seems to be forgotten. This Bill is not intended to apply to debts incurred after the 23rd Dhanu 1112. Any transaction that might have been entered into after the 23rd Dhanu 1112 will not be affected by the provisions of this Bill, but will be governed by the existing provisions of law which apply to all debts. In the case of credit institutions, whether they be public companies or private companies or firms or individuals, transactions entered into by them after the date mentioned by me, will not be affected by the provisions of this Bill except for certain very limited purposes mentioned in the Bill. If that be so, Sir, I would request the honourable members to consider how they can justifiably say that this is a very drastic measure and that it annihilates all credit facilities and even the credit structure in this country. The Bill does apply to debts incurred before the 23rd Dhanu 1112. At the same time, while making it applicable to all *debtors*, it does not apply to all *debts* incurred before that date. Clauses 4, 5 and 6 are those which seek to exclude certain classes of debts. The inclusion of debtors so far as this legislation is concerned, is based on one important fact. It is acknowledged on all hands that the distinction between an agricultural debtor and a non-agricultural debtor is

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not much in this country. In other countries and provinces conditions are different. The honourable member Mr. Krishna Aiyar who referred to the limited scope of the Madras Debt Relief Act and the Cochin Debt Relief Act must be cognisant of the fact that an agriculturist has ceased to be such as was understood in this State. An agriculturist here is understood to be a person whose main source of sustenance is agriculture. That is the definition in Travancore and that is what every lay man could understand by it. The legal definition of that expression has undergone a change in other places. It is so defined as to include any person who has got any interest in any immovable property. Any person, whether a lessee, hypothecatee or mortgagee, or for that matter any other interest in immovable property, is an agriculturist in Madras and Cochin. The definition if adopted here would exclude thousands in this State as is done in those countries who cannot claim to own an inch of soil on the face of the earth but who are debtors that deserve relief. Is there not a difference in fundamentals so far as exclusion of such classes of debtors goes? To say that in Cochin and Madras and other provinces the Debt Relief measure applies only to agriculturists, is to forget the new implication contained in the expression "agriculture". That is a new exploitation of "agriculture" not warranted by anything that exists around us. There are certain provisions in the Civil Procedure Code dealing with "agriculturists". They are never understood as persons owning interest in immovable properties, but as persons whose occupation is agriculture. If that is so I do not find any justification in importing into the statute a new definition of that expression, a definition which does not represent the true and general idea conveyed by it. It may be that none among the creditors would have advanced any money to one who does not own any immovable property in this country, but that is no reason for excluding the large class of people who are really the agriculturists of the country. Apart from that, the real implication contained in this Bill is not different from that contained in the Acts in force in Madras and Cochin. By exclusions in Madras and Cochin, certain *debtors* are excluded from the category of agriculturists. In Travancore, certain *debts* are excluded from the scope of the measure. This is the first fundamental difference underlying the Bill. In Madras, they have provided that, in respect of every debt to which the Act applies, all interest outstanding, due till a particular day shall be deemed to have been discharged. This is without any guarantee for payment of the balance. Ours is entirely different. It is not so revolutionary as theirs, if that expression could be used. We have proposed that if payment is made regularly for a certain period and

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to a particular extent, the remaining portion of the debt shall be deemed to be discharged. We have made the principle of re-payment as the condition for reduction. The honourable members who have spoken on behalf of creditors will admit that at a time of economic distress, they themselves have freely and willingly granted such concessions in favour of creditors. I ask, do the provisions in the Bill go beyond that? Would not Mr. Krishna Aiyar himself make a reduction if a debtor pays him 75 per cent. and asks for 25 per cent. reduction? Is there any creditor in this country who likes to exact the pound of flesh from a distressed debtor? I do not think that the creditors of this country are so hard and would advise Government not to support this measure. According to this Bill, if a payment is made, then some reasonable reduction is granted to the debtor. It pained me much to hear from Mr. Krishna Aiyar that the Government have done wrong to the creditor community, that the Government thereby breed hatred between one class and another and destroy the entire credit system in the country. These are mere exaggerations. The distress is real. Our creditors themselves feel it. They have complained that it is difficult to recover money advanced as loans. They are themselves ready to accept whatever is paid and forego a portion. This Bill merely gives statutory recognition to it.

Chairman: I wish to bring to the notice of the honourable House the ruling in connection with the official members transacting official business in the Chamber. The ruling is

> "It is not open to official members to transact official business in the House and go through Departmental files....."

I only wish to remind the official members of that.

Mr. M. K. Nilakanta Aiyar: In that case, may I know whether an official member can go through files relating to the Assembly and the Council?

Chairman: The ruling is that it is not open to official members to transact official business in the House and go through Departmental files. The ruling is very clear. The expression 'official business,' whether it is legislative or otherwise, is official business and it cannot be transacted while discussion is going on in this House, and it will be scant courtesy to this House, which discusses a question on which the attention of official members is expected to be rivetted. That is my ruling.

Mr. C. V. Chandrasekharan: May I know, would that apply to taking notes of debates that are going on in the House?

Chairman: There is absolutely no objection to that.

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Mr. M. K. Nilakanta Aiyar : May I know, Sir, whether the passing of drafts connected with interpellations of the Council, preparation of notes relating to that are also prohibited ?

Chairman : Order, order. The Chair is not bound to answer hypothetical questions or any questions. It has come to the notice of the Chair that some official members are transacting official business and that according to the rulings it is not permissible. So, the Chair brought to the notice of official members who are not aware of that ruling that such business cannot be transacted in the House in as courteous a manner as possible. Therefore no questions are allowed in regard to that matter.

Mr. Puthupalli S. Krishna Pillai: So far regarding one important provision which was criticised vehemently by two honourable members of this House.

I next come to the provision relating to instalment payments. It is said that the provison relating to instalment pavment is calculated to ruin the creditors.

Chairman : The House will now adjourn and meet again at 2 o' clock.

The House adjourned for lunch at 1. 2 P. M. and reassembled at 2 P. M. with Mr. Kottur Kunjukrishna Pillai, one of the panel of chairmen, presiding.

Mr. Puthupalli S. Krishna Pillai : Sir, I stated that the provision relating to reduction of debts was not in any way likely to affect the creditors to any appreciable extent. It was complained that the provisions relating to payment in instalments were really harsh and that such provision would tend to impair the credit in the country. Honourable members who advanced this argument may kindly refer to Section 33 of the Agriculturists' Relief Act. Under that Section, power is granted to the Courts to grant 12 years' time for payment of any debt to which that Act applies and also for allowing payments in 24 instalments. This provision, though intended to be temporary in its operation has been extended from time to time and it will be in operation till the 31st of this month and if this measure was not under the consideration of the Legislature, I am sure Government would have had to take steps for further extending that provision. The provision contained in this Section is sought to be availed of by every debtor in this country and it is the information of Government that Courts very often fined it difficult to deny the benefit conferred by this Section to any debtor in this country. The present position appears to be that every debtor comes forward and claims to be an agriculturist and ever so many methods are resorted to for the purpose of establishing that he is entitled to the benefits of the provisions of this Act. In the vast

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majority of cases Courts are compelled to apply the provisions of this Act to any debtor who comes forward for relief under the Section because the definition of the word 'Agriculturist' is such that it will enable most debtors to establish that they are agriculturists. When the provision in the Agriculturists' Relief Act enabled payments to be made in 24 instalments and 12 years, the Bill that is now presented to this House contains the provision that the time for payment need be extended only to 9 years and that in instalments not exceeding 18 in number. If that is really the implication contained in clause 9 of the Bill, can it be said that the other House or for that matter, Government were considerate towards the debtor class or that the measure is such as would tend to impair credit in this country? Sir, it was then pointed out that certain provisions were added on to the Bill introduced by me and that those provisions did not properly fit in with the provisions contained in the original Bill. I may state for the information of the House that the matter was in the hands of the other House for a considerably long time and proposals that were made by that honourable House far exceeded the limits which Government felt justified to adopt and it was only by a long series of negotiations, compromises and settlements that these provisions were finally adopted by that House. One new provision that is introduced after the introduction of the Bill in the other House relates to the reduction of interest claimable under a decree. Sir, the rule relating to accumulation of interest which prevailed in Travancore before the Civil Procedure Code was enacted was that not more than half the principal in the case of money debts and the principal in the case of paddy debts shall be awarded by a Court. It was under such circumstances that credit flourished in this country. No one can deny the fact that creditors were prepared to advance money on those terms. Then there was the other provision that in execution, not more than a similar amount shall be realisable. It was with those restrictions that the credit in this country flourished. If credit could flourish under such circumstances till 1100, it appeared to Government that there would be nothing unreasonable in going back to that provision at least in respect of debts, which the debtors were able to repay. Could it be said that this provision is revolutionary? It has been adopted by almost all the modern legislatures. It has been adopted in British India and the Cochin State. I am not in a position to understand the grievance or the heart-burning that might result from such a provision. For the purpose of payment of debts we are restoring the law which was in force for a very long time, nearly a hundred years, in this State.

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Mr. M. K. Ananthasiva Aiyar: May I know whether during that time there were such prolonged litigations in the State?

Mr. Puthupalli S. Krishna Pillai: Yes, there were prolonged litigations in the case of Marumakkathayees. Cases connected with them, all necessarily dragged on for a long time. But a measure was in the Legislature in that year, namely the Nair Act and Ezhava Act, and the Marumakkathayam Law so far as it related to other communities, has been put on the same basis subsequently by other Acts. The Tarwad system has since been practically abolished. At present there is no complaint about prolongation of litigations arising from the Marumakkathayam system. In the vast majority of cases delay is not due to the inherent defect of any system of law. Repeated statements have been made in the Legislature that it is that provision contained in Sec. 31 of the C.P.C. that is responsible for the large accumulation of indebtedness in this country. Whatever may be the cause of delay in the disposal of suits, the creditor now gets all interest that accumulates. Contrary to the old practice, interest on the aggregated sum is now realisable and it is the general practice to award and realise such interest. During last 10 years, I have to acknowledge that the innovation made in the law has tended to an accumulation of interest to the detriment of the debtors. Government would have been justified in response to an appeal made by the public to reconsider the question of amending Section 31 of the Civil Procedure Code. They have not done it even though they would have been justified in doing it. Laws delays in Travancore must be acknowledged to be notorious. Every honourable member of this House and the other House has been complaining about it. Every trader has been complaining about it. Every money-lender has been complaining about it. In spite of all these complaints, in spite of the earnest endeavours made by Government, laws delay is a problem which baffles the ingenuity of legislatures, the earnestness of judges and the vigilance of Government. Now, if law's delays would protract litigation, can the debtor be reasonably found fault with for the pendency of these suits? What is the position of the creditor? In spite of the delay he feels sure that his position is safe, interest will be annually accumulating and the debt will be hourly increasing. He need not be as vigilant as under the old law and it must be acknowledged that in many cases creditors themselves contribute to a large extent to the delay. If his interest is not affected, he is not concerned about the delay in Courts. What the debtor used to claim is now the common rule for the creditor to adopt. Whatever may have been the justification for the adoption of Section 31, that cannot be said to exist at the present day, but Government have not yet finally decided to effect any change in this respect.

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[Mr. Puthupalli S. Krishna Pillai]

These are all important matters to be taken into consideration. The question of amending Section 31 of the Civil Procedure Code may be taken up by Government at no distant date. Let alone that question. But no doubt, creditors may really feel aggrieved. I concede that, but is it not the rule of Damdupet. Is it not a rule about which we all speak in approbation. Can there be any harm in adopting it for a limited purpose? Honourable members should remember the way in which this rule has been applied in the Madras Province. They should be thankful that the provision contained in the Bill is not as revolutionary as the one that is made in Madras. There interest paid, if it exceeds a particular amount, is directed to be appropriated towards principal. If in respect of a transaction the creditor has received any amount exceeding twice the principal he will have nothing more to realise under the transaction. The only safety of the creditor is that he is not compelled to refund the amount already received. Has it gone to that extent here? Can the creditors complain that the provisions contained in this measure are more revolutionary or more far-reaching than the provisions contained in similar legislations in other States. My honourable friend Mr Krishna Aiyar read a passage from a book on the relief of agricultural indebtedness—which says that the Madras measure has considerably affected credit It may be true of Madras, but I can assert that we have not followed Madras in this respect and that the same will not be said of Travancore.

Sir, the provision relating to the rural insolvency jurisidiction has been the subject of further criticism. It provides for affording relief to the person who is unable to pay even in accordance with the provisions of this Act. It will be found that it applies only to persons who are unable to pay the debt incurred before the 23rd Dhanu 1112. It does not apply to any person whose sole debt is one incurred after that date. It is worded in such a way that it could not interfere with existing credit. It is provided under that clause that the debtor shall be given 1/4 of his assets not exceeding Rs. 3,000 in value and that the rest of the property shall be distributed among his creditors. There is nothing novel in this provision. The benefit of Section 9 are extended to persons who surrender all their properties to their creditors. If in 9 years the debt is repaid the debtor shall be entitled to a reduction of 20% of the debt. If, therefore, instead of dragging on the matter for 9 long years the debtor makes an honest attempt to pay up his debt and chooses to surrender all his property putting himself at the mercy of the Court, could he not be given 25 per cent. of his assets? But it applies only to the debtor who is unable to pay according to the provisions of this Act. The Bill provides 2 years, 6 years and 9 years for the re-payment of the debt. It further provides that each

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payment need be only 6 per cent of the total indebtedness. If there is a debtor who is unable to take advantage of any of these provisions, then what kind of a debtor he should be ? He must really be a person who really deserves our spmpathy. It is in the case of this debtor that you accept the 75 per cent of his property and gives him 25 per cent and wherever possible his homestead. In a country like Travancore, would it be said that such a concession to a debtor is really unjustifiable ?

Mr. C. N. Thuppan Nambuthiripad (*Travancore Jenmies*): അധമർണ്ണൻ എന്ന പദത്തിന്റെ വ്യാഖ്യാനത്തിൽ അധമർണ്ണന്റെ അവകാശിയും പ്രതിനിധിയും വസ്തുവിൽ താല്പര്യമുള്ള ഏതൊരാളും ഉൾപ്പെട്ടുമെന്നുകാണുന്നു. പണയവസ്തുവിൽ ആർക്കെങ്കിലും ആഗ്രഹം ജനിച്ചാൽ അയാൾക്കും ബാദ്ധ്യതയുണ്ടോ എന്നറിഞ്ഞാൽ കൊള്ളാം.

Mr. Puthupalli S Krishna Pillai : ബില്ലിൽ പറഞ്ഞിരിക്കുന്നവർക്ക് ഇൻറെറസ്റ്റ് എന്നാണ്. താല്പര്യം എന്ന പറയുന്നതിന്റെ അർത്ഥം ആഗ്രഹം എന്നല്ല. "പല താല്പര്യങ്ങളും സംരക്ഷിക്കേണ്ടതായിരിക്കുന്നു" അതു് ഇൻറെറസ്റ്റ് ആണ്. താല്പര്യം എന്ന പദത്തെ ആഗ്രഹമെന്ന പദത്തിന്റെ പര്യായമായി മനസ്സിലാക്കിയിരിക്കുകയാണു്. എന്നാൽ താല്പര്യം എന്ന പദത്തിന്റെ ശരിയായ അർത്ഥം ആഗ്രഹം എന്നല്ല, അതു് ഇൻറെറസ്റ്റ് ആണു്.

Mr. Kalloor Narayana Pillai : അവകാശത്തെ ബാധിക്കുമെന്നോ താല്പര്യത്തെ ബാധിക്കുമെന്നോ പറഞ്ഞിരിക്കുന്നതു് ?

Mr. Puthalli S. Krishna pillai : അവകാശമെന്നാണ് ഇതിൽ അർത്ഥമാക്കിയിരിക്കുന്നതു്.

Those who arefamiliar with the statutory law would realise that the expression is a matter of common occurrence. It is an expression which has been subjected to judicial criticism and is covered by judicial decision. A lawyer who finds that expre ssion will not have any difficulty in understanding that expression.

Sir, I was at the point of rural insolvency. No doubt, there are really beneficient provisions which the creditors themselves would acknowledge if they were left to themsselves. But it must be understood that this house is not taking into account only creditors like Mr. Krishna Aiyar or Mr. Ananthasiva Aiyar. It deals with the creditor class as a whole which includes persons who will not be satisfied till they get the last pie out of the debt. So far, Sir, with regard to the main principles.

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[Mr. Puthupalli S. Krishna Pillai]

I have only a few words to add. Honourable members would realise that during the last 7 or 8 years ever since depression commenced, Government have been called upon to adopt measures for affording relief to the indebted people of this country. In response to that demand Proclamations were issued postponing the payment of debt or postponing the sale of immovable properties in execution of decrees. Then Government were faced with the necessity of further ascertaining public opinion and they appointed a Committee for the purpose. Both creditors and debtors represented their view points. The Agricultural Debt Relief Committee submitted its report. They were unanimous in their recommendation that relief to some extent was necessary. They suggested reduction in the rate of interest, payment in instalments, advancement by way of loans to debtors and various other radicial measures. The Devadhar Committee had also instructions to go into that question. The Committee had also opportunities to examine the total indebtedness in this country and to make certain recommendations. The Agriculturists' Relief Act was enacted in 1112. But that measure was limited in its scope and it applied only to agriculturists, but it soon turned out that there were not many who were not agriculturists. At least every debtor claimed to be an agriculturist. Government appointed Debt Conciliation Boards and honourable members know the total expenditure incurred by Government till this day. On examining the question as to why the Conciliation Boards did not function successfully, Government found that Conciliation was merely voluntary and that there was no power with the Conciliation Officers to enforce their decision or to compel the creditors to accept any reasonable terms which the debtors proposed. Conciliation is merely a voluntary one. It failed and honourable members will concede that it failed. The necessity for a more radical and effective measure continued to exist and the public demand became more insistant. Government therefore appointed another Committee, the Debt Relief Committee, with no less a person than Dewan Bahadur Rajyasevadhurandhara V. S. Subramonia Aiyar, who was the Dewan of Travancore for some time as President. An examination of the personnel of that committee would show that every interest was represented in it. That committee made a recommendation which followed mainly the provisions contained in the Madras and the Cochin Act according to which every debt has to be reopened, every payment had to be set off against amounts due to the creditor and whether or not a debtor had the capacity to pay and whether he was an agriculturist or non-agriculturists, the provision was to be applied to all. Government took further time to consider the matter and the views of the members of

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both Houses were ascertained. Government were as anxious as the people to solve the problem of indebtedness without impairing the credit of the country, without allowing the growing feeling to become more acute. Government decided to afford relief and they thought that if they took away any privilege of the creditors, they should give something back in return. It may not be exactly in proportion to the right so deprived of; but it must be valuable, that is to say, for any right which a creditor is depreived of, there must be a valid consideration. It was on that principle that the Bill as introduced by me was drafted. Government thought that in the first place, relief of indebtedness was necessary; in the second place that there should be no use of making a distinction between agriculturists and non-agriculturists and in the third place, that if vested rights are interfered with corresponding guarantees must follow. Therefore the Bill provided that it shall apply without distinction to all debtors and that if a debt due to a creditor is asked to be scaled down, he must have the guarantee that that amount would be paid. Without repayment there is no reduction. Representations by the creditors themselves have been made to Government that it was very difficult to get back money they had advanced; that all manner of subterfuges were being resorted to by the debtors that the Courts were not co-operating with the creditors in getting back the money that they had advanced and that the time had come when something radical should be done. Government did really take all these matters into consideration and they had chosen to act on the principle that whether it be a debtor or a creditor he must move with the times. Creditors must be aware of the general tendencies in other countries. I do not say that we have yet reached that stage when debtors as a class are inclined to repudiate their debts. But it must be remembered that all credit is not safe or secure, that creditors as well as debtors must be prepared to move with the moving times and show concessions to demands legitimately made. (*At this stage the Dewan President resumed the Chair*) Government are conscious of this aspect of the matter and they have only tried to arbitrate between the one class referred to by Mr. Krishna Aiyar as the creditor class and the other class ordinarily called the debtor class. Government bestowed considerable attention on this matter and it should not be supposed that the Bill was brought to this House without due care and attention being paid to all the attendant circumstances.

Sir, I hope when honourable members get the occasion to discuss this Bill, clause by clause, they would understand that the imputations made against Government or the statements directed against the Government are not justified.

With these few words I commend my motion for the acceptance of the House.

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Mr. Kochikal P. Balakrishnan Tampi: May I know from the honourable member whether Government have any objection in allowing the co-operative debts to be conciliated by the officers of the co-operative societies ?

Mr. Puthupalli S. Krishna Pillai: Sir, where the provisions of the Act are found to be insufficient, Government have power to impliment such provisions by rules made under particular clauses. Wherever it is found that any provision is unworkable without further rules, rules will be framed to obviate those difficulties. But my own impression is that there is no necessity for framing any fresh set of rules to deal with the co-operative debts. There are sufficient provisions.....

Mr. Kochikal P. Balakrishnan Tampi: May I know whether the existing agencies in the co-operative societies could not be asked to be ex-officio officers in the matter of dealing with co-operative debts ? I want to know whether the Government could give any assurance on that matter.

Mr. Puthupalli S. Krishna Pillai: It is provided in the Bill and no assurance is necessary for the purpose of giving effect to the provisions of this Act. There are provisions which will empower the officers of the Co-operative Department to deal with the debts.

The motion that the Debt Relief Bill be taken into consideration was put to vote and declared carried.

Clause 1.

The question that Clause 1 do stand part of the Bill was put to vote and declared carried.

Clause 1 was added on to the Bill.

Clause 2.

Mr N. Krishna Aiyar: Sir, I move that

"In Clause 2, sub-clause (1) after the words 'public company' add the words 'or firm''.

As I have already pointed out in my general observations there are a number of private institutions scattered all over the coutry in rural areas and towns functioning as banks and doing the service of banks. Such firms or banks if not protected are bound to perish and that means the ruin of a particularly useful unit in the financial structure of the areas. It is therefore.....

President: By 'firm' you mean 'partnership' ?

Mr. N. Krishna Aiyar: Yes, firm also includes partnership.

It is with the object of giving protection to the firms from the provisions of the Act that I introduce this amendment.

Mr. M. K. Ananthasiva Aiyar: Sir, I second the motion.

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Mr. Puthupally S. Krishna Pillai: I oppose the motion. The definition of the word "bank" has been necessitated by the special provisions contained in clause 6. The concessions contained in clause 6 are intended only for public companies carrying on banking business and the reasons are quite obvious. It was stated by Mr. Krishna Aiyar himself that there is justification for granting some exemption in the case of public banks. Their profits have been distributed among share holders and not among one or two but among a large number of them and that their liability is limited and that large classes of people will be affected and that their business is carried on in accordance with the provision of the special statute governing them. But to say that any firm carrying on banking business is a bank for the purpose of the Bill is to say in the preamble that nothing contained in this Act shall affect any person who has lent money. There is no compulsory registration of firms now in force. No serious penalty is exacted for non-registration and even now these firms do not and will not come forward for registration under the Partnership Act. Even the supervision the Registrar may exercise is very limited. The justification for including banks which are public companies would not be available in the case of private banks. If that is the real position is there any justification for including firms within the definition of the word 'Bank'? I oppose the amendment.

The amendment was put to vote and declared lost.

President: I have been given a list which I requested to be prepared containing all the amendments received up to this morning. I should like to know whether the honourable members have any objection to consider all these amendments.

Mr. Kottur Kunjukrishna Pillai: Sir, there was sufficient time for giving proper notice of the amendments. There is no excuse for late notices of amendments. Therefore I oppose the consideration of those amendments which are received late.

Mr. Kochikal P. Balakrishnan Tampi: I propose that the amendments be considered on the merits. We must be jealous of the privileges of the House. There was not sufficient time to get them printed.

President: I shall abide by the decision of the House.

The question whether amendments received late should be considered was put to vote and carried.

The House proceeded to the discussion of the amendments.

Mr. S. Veeraiah Reddiar (Co-opted for the Debt Relief Bill).

സർ, രണ്ടാം വകുപ്പിൽ താഴെപറയുന്ന ഭേദഗതി ചേർക്കണമെന്നു ഞാൻ അപേക്ഷിക്കുന.

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[President.]

In clause 2, sub-clause (1) may be altered as following, *viz*:—

'Bank' means a public Company carrying on business in Travancore or which carried on business in Travancore, during the last four years.

ചില ബാങ്കുകളുടെ പ്രവർത്തനം ഇപ്പോൾ നിന്നുപോയിട്ടുണ്ട്; ഇങ്ങനെ പ്രവർത്തനം നിന്നുപോകാനുള്ള കാരണം അവർക്കു പിരിഞ്ഞു കിട്ടാനുള്ള പണം പിരിഞ്ഞുകിട്ടാത്തതുകൊണ്ടാണ്. അങ്ങിനെയുള്ള ബാങ്കുകളെക്കൂടി ഈ നിയമത്തിൽനിന്നും ഒഴിവാക്കിയില്ലെങ്കിൽ അവർക്കു പിരിഞ്ഞുകിട്ടേണ്ട പണം എളുപ്പത്തിൽ പിരിഞ്ഞുകിട്ടുകയില്ല. അതുകൊണ്ടു ഈ ഭേദഗതി സ്വീകരിക്കണമെന്നു ബഹുമാനപ്പെട്ട മെമ്പർമാരോടും ഗവണ്മെൻറിനോടും ആവശ്യപ്പെട്ടുകൊള്ളുന്നു.

Mr. M. K. Ananthasiva Aiyar: I second the amendment of Mr. Veeraiah Reddiar. In seconding the motion I wish to say that during the past decade a lot of banks came into existance in Travancore doing money lending business. They were something like usurers. Any how they have been able to get a large number of shareholders on their roll and they have been able to get a good amount as deposits on decent rates of interest. Many of them have now collapsed, many on account of the non-payment of the amounts advanced by them. But many people have deposited money in such banks and are put to considerable difficulties in not being able to get them back. Nobody expected that the banks will fail. Allowing the amounts due to such banks to be paid in long intervals will make the Managers to write off the amounts realised if as then and there for charges and the like, so much so the shareholders and the depositers may not be able to get anything at all. I strongly support the motion of Mr. Veeraiah Reddiar.

Mr. Kottur Kunjukrishna Pillai: Sir, I oppose the amendment. Certain concessions have been provided, for the banks in existence on the ground that they have to meet demands made on them and in the hope and expectation that they will meet such demands. Only those banks that are able to answer the claims of depositors have got a right to ask for any such concession. Those that have either due to mismanagement or due to various other causes ceased to function have no right to expect any kind of concession from this House or anybody, which is only due to a corporation working properly. Once they are not working and once they are not able to fulfil their obligations it is a travesty to call them banks and no concession can be deservedly bestowed on them. I

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cannot see any justification for the inclusion of defunct banks in the definition except perhaps the hope that by such a measure some people who are creditors of such defunct banks may be able to get something more by way of their share of the money they have almost lost. Any way such a definition of a bank in a statute will be a very curious definition. A bank that does not function cannot be called a bank. It will be ludicrous to call a bank which has ceased to function as a bank, which has faild to justify the connotation given to it, as a bank along with other banks which are functionary.

Mr. Kalloor Narayana Pillai : സർ, ഞാൻ ഈ ഭേദഗതിയെ അനുകൂലിക്കുന്നു. ബാങ്കിന്റെ വിവരണം കൊടുത്തിരിക്കുന്നത് "ഈ ആക്ടു നടപ്പിൽവരുന്ന സമയത്തു പ്രവർത്തനം നടത്തിക്കൊണ്ടിരിക്കുന്ന ബാങ്കു" എന്നാണു. എന്നാൽ ഈ ബില്ലിലെ ആറാം വകുപ്പിൽ ഉള്ള ചില ക്ലാസ്സുകൾകൊണ്ടുള്ള വിഷമങ്ങളെ ധരിപ്പിക്കുവാനാണു് ഞാൻ പോകുന്നതു. അനേകം ബാങ്കുകൾ അഞ്ചു ലക്ഷവും ശുപാ മൂലധനം മുടക്കി വലിയ വലിയ ചിട്ടികൾ നടത്തിക്കൊണ്ടിരുന്നു. കുടിയാനവന്മാർ അങ്ങിനെയുള്ള ചിട്ടികളിൽ ചേർന്നു അവരുടെ വസ്തുക്കൾ ബാങ്കുകൾക്കു പണയപ്പെടുത്തി കൊടുത്തിട്ടുണ്ടു്. ബാങ്കുകളുടെ പ്രവർത്തനം നിന്നുപോകൊണ്ടു ഈ ചിട്ടികളും മുടങ്ങിക്കിടക്കയാണു്. ഇന്നു പ്രവർത്തനത്തിലിരിക്കുന്ന ബാങ്കുകൾ വളരെ ചുരുക്കമാണു്. തിരുവിതാംകൂറിലെ അനേകമാളുകൾ ഈ ചിട്ടിയിലകപ്പെട്ടു കുഴങ്ങിക്കിടക്കുന്നതുകൊണ്ടു് ലിക്വിഡേഷനിൽ കിടക്കുന്ന ബാങ്കുകളെ ഈ നിയമത്തിന്റെ പരിധിയിൽ നിന്നും വേർപെടുത്തിയില്ലെങ്കിൽ വളരെ വൈഷമ്യം നേരിടുമെന്നുള്ളതുകൊണ്ടു ഈ ഭേദഗതി ആവശ്യമാണെന്നാണ് എന്റെ അഭിപ്രായം.

Mr. Puthupally S. Krishna Pillai : I have only to allay the apprehensions of my friend Mr. Kallur Narayana Pillai. It is said that if this definition is adopted it will prevent relief in the case of Chitty debts started by banks which are defunct. It is provided that even in the case of existing banks Chitty debts whatever be the rate of interest shall not be excluded. That is the provision contained in clause 6 sub-clause (ii). Even in the case of banks meaning public companies carrying on banking business on the date of the Act Chitty debts will not be excluded but will be affected by the provisions contained in the measure. As a lawyer my friend argued what will happen in the case of public companies which are not banks. He asked whether the provisions of the Act will apply

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[Mr. Puthupally S. Krishna Pillai.]

to such debts. Certainly there is no exclusion given to Chitty debts ; even in the case of existing banks they are included. It will be much more so in the case of Chitty debts due from any person, whether he is one carrying on banking business or whether it is due from an individual or a firm or an incorporated company which at one time carried on banking business. In all such cases Chitty debts will be affected. We have stated that in the case of existing banks, that is, banks which carry on banking business on the date of the Act any liability arising out of the transactions of the bank shall not be affected if the interest in respect of such a transaction does not exceed nine per cent.

The arguments against the amendment have been advanced by Mr. Kunjukrishna Pillai and I do not want to add to the sound reasoning contained in them. I oppose the amendment.

The amendment of Mr. S. Veeraiah Reddiar was then put to vote and declared lost.

Mr. K. K. Kuruvilla (*Mavelikara and Thiruvella* cum *Pattanamthitta*) : Sir, I move that in clause 2, sub-clause (i) the following may be added to the definition of 'bank':—"but it does not include co-operative banks". My amendment takes for granted that co-operative societies come within the Act. But when I read the Bill I could not find how they are brought in. A public company is defined as a public company defined in the Travancore Companies Act. But whether co-operative societies really come within the Act is to my mind doubtful. Again looking at clause 6 (i) it says that all banks which do not take more than 9 per cent. interest do not come within the Act. Co-operative societies do not take more than 7½ per cent. So, it is not clear at all whether co-operative societies come within the bill or not. If the position is not defined, it will create a great deal of doubt in the minds of the people.

Mr Puthupally S. Krishna Pillai : Is it the Member's intention to bring within the scope of the Bill debts due to co-operative societies or to exclude such debts ?

Mr. K. K. Kuruvilla : I want the societies to be brought within the Act.

Mr. Puthupally S. Krishna Pillai : Is this amendment intended to carry out that idea ?

The amendment fell through for want of a seconder.

The question that Clause 2 do stand part of the Bill was put and carried and Clause 2 was added to the Bill.

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Clause 3.

Mr. K. K. Kuruvilla: In clause 3 I move for the deletion of the expression "before the 23rd Dhanu 1112." That has been discussed again and again. To my mind, this Bill will have no real value unless we delete this expression. The real difficulty of the people lies in the amount which they borrowed between 1105 and 1112 or even before. So, if instead of restricting the application of the Act to debts incurred before 23rd Dhanu 1112 we include all debts incurred till the commencement of the Act, that alone will bring real benefit to the debtors in this country. So, I suggest that my amendment may be accepted.

The amendment fell through for want of a seconder.

Mr. N. Krishna Aiyar: Sir, I beg to move that in clause 3, and in the Explanation thereto, for the words "23rd day of Dhanu 1112," the words "1st day of Chingom 1105," be substituted.

It has been pointed out in the A. D. R. Committee Report that the depression began by the 1st day of Chingom 1105. The Committee also pointed out that after the commencement of the depression the transactions entered into between parties could have been only with open eyes with full knowledge of the conditions then prevailing. And therefore they themselves pointed out that there was no justification for scaling down the amounts of transactions entered into after the commencement of the period of depression. It is therefore that I move that instead of confining the exclusion to debts incurred after the 23rd day of Dhanu 1112, debts incurred prior to 1st day of Chingom 1105 may be excluded. So, I commend my amendment for the acceptance of the House.

Mr. M. K. Ananthasiva Aiyar: Sir, I second the amendment. In doing so, I wish to say that one of the important reasons brought forward for reducing the amounts of debts is the fall in the prices of the articles grown in the State. As a matter of fact the prices of articles grown in Travancore are now much greater than those prevailing before the year 1112 or between the years 1105 and 1112. As such, there is absolutely no justification in saying that the money value has increased, when we compare the prices prevailing during the period 1105 to 1112 and the present time. In the present circumstances it will only be unjustifiable if the amounts that have been advanced during the period of depression are reduced. Hence I support the amendment.

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Mr. Puthupally S. Krishna Pillai : Sir, I oppose the amendment. This amendment cuts at the root of the main principle underlying the Bill. It was said that it shall not apply to any debt incurred on or after 23rd Dhanu 1112 but shall apply to all debts incurred before, subject to certain reservations contained in Clauses 4 to 7. The question of fixing an earlier date was certainly considered by the other House, but that House came to the conclusion that all debts incurred before 23rd Dhanu 1112 must be included. The claim was that the Bill must apply to all debts incurred till the commencement of the proposed measure, but that the Government did not agree to. The Agriculturist's Relief Act applied to debts incurred before that date, that Government thought that they would not be justified in excluding any portion of such debts from the provisions of the Bill. In respect of debts incurred after the Agriculturists' Relief Act came into force, on the faith of the provisions contained therein, no interference will be justified. Therefore it was that Government themselves decided to adopt this date as the date for fixing the debts to which the Act is to apply. The arguments advanced in favour of fixing an earlier date are not very convincing and so I oppose the amendment.

The amendment was put to vote and declared lost.

Mr. N. Krishna Aiyar: Sir, I beg to move that in Clause 3, and in the Explanation thereto, for the words "23rd day of Dhanu 1112," the words "1st day of Chingom 1107," be substituted."

In respect of fixing the date as the 1st day of Chingom 1107 the ground is much stronger, because, as the A. D. R Committee points out, although the depression actually commenced on the 1st day of Chingom 1105, it began to be acutely felt by all persons who suffered by the depression only at the beginning of 1107. There are also other visible effects of such a feeling, in that the Imperial Bank rate went up showing that the money market was tight. That was the year in which the Travancore State Land Mortgage Bank was constituted and Government fixed the rate of interest at 7½ per cent for advances to the debtors on the mortgage of their properties. So it was evident that the money market was very tight from the year 1107 and the effect of the depression had begun to be felt. At a time when the depression was so keenly felt, creditors who made fresh advances would certainly have been induced to do so only to relieve the effects of the depression by making available their surplus for the relief of such debtors. That is all the more reason, therefore, that fresh transactions entered into after 1st Chingom 1107 are entitled to be protected. This fact seems to have been recognised even by the present Debt Relief

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Enquiry Committee who make a clear distinction between the debts incurred before 1107 and debts incurred after 1107. It is therefore that I move this amendment for fixing the date for exclusion of relief to the 1st day of Chingom 1107. I commend my amendment to the acceptance of the House.

Mr. Puthupally S. Krishna Pillai: Sir, I oppose the amendment for the reasons for which I opposed the other amendment for the substitution of the words "1st day of Chingom 1105."

The amendment was put to the vote of the House and declared lost.

Mr. N. Krishna Aiyar: Sir, I beg to move that in Clause 3, the Explanation be deleted and the following added to the main Clause before the full stop:

> "but shall not apply to any debt covered by any document executed after the said date."

Although the commencement of the depression was in 1105 and the acute nature of the depression dawned upon the people in 1107 and although no relief is given in respect of advances made during that period by the creditors who must have done it at a sacrifice, there is much stronger reason why the exclusion which has been accepted on the principle that debts incurred after the date of the passing of the existing Act should not be affected. In view of that definite exclusion, my submission is that the explanation takes away a good deal of the effect produced by that exclusion, because it says that "where a debt incurred before the 23rd Dhanu 1112 has been renewed, included or merged in a fresh document or decree in favour of the creditor after the 23rd Dhanu 1112, such debt shall, notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, be deemed to be a debt to which this Act applies." This seems to suppose that the taking of a renewal is something wrong or forbidden. The fact that a fresh document is taken in renewal of a prior document only shows the existing cordiality, mutual trust and confidence between the creditor and the debtor. If it was that the creditor had no confidence in the debtor the creditor would have certainly filed a suit. If on the other hand, the debtor thought that it was not advantageous to have dealings with the creditor concerned, he would certainly not have renewed the document. So what has been done in the taking of a renewal is that the creditor has shown a lenient attitude to the debtor and has sympathised with him in his difficulty to raise cash at that time and has allowed him further time to pay the amount at his own leisure and according to his convenience. If for such a leniency and for such an exhibition of cordiality between the two persons who dealt with each other, it has to be taken as a

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[Mr. N. Krishna Aiyar.]

transaction not entered into then, it is causing harm to the creditor, because every renewal is a fresh contract. It is not only an acknowledgment of an existing liability but also a fresh promise to pay the debt at the time stipulated in the document of renewal.

It is very easy for the creditor to close one ledger and open another as a fresh transaction. Without doing that, if he is good-enough to rely upon the existing relationship and to take a fresh document to keep up the relationship between the debtor and creditor, to say that such renewals should not be given the benefit of the exclusion, it seems to me to be quite unreasonable. I therefore request the honourable House to accept this amendment.

Mr. M. K. Ananthasiva Aiyar : In seconding the amendment before the House, I beg to submit another aspect of the matter. Suppose a man has executed a hypothecation bond in favour of A. That document was to be barred on some day after the 23rd Dhanu 1112. The natural course for a creditor will be either to file a suit against the debtor or to get the document renewed. Unfortunately, the creditor chooses to get the document renewed. If he had filed a suit and obtained a decree against the debtor, under the existing Bill, he is entitled to get a certain amount of interest from the date of the decree. Under this Bill, the renewal of a document is not recognised. Therefore the creditor loses the interest on the principal from that date.

Mr. Kochikal P. Balakrishnan Tampi : What does the member mean by document here? Is it any bill of lading?

Mr. M. K. Ananthasiva Aiyar: Let it be a pronote. So, if Mr. Krishna Aiyar's amendment is not allowed the creditor stands to lose. A more lenient creditor will lose a great deal than the one who filed the suit against the debtor and made him liable for the costs of the suit also. For these reasons I strongly second the amendment.

Mr. Thomas Chandy Mukkadan (*Nominated*): സർ, ഞാൻ ഈ ഭേഗതിയെ പ്രതിക്ഷേധിക്കുന്നു. ഈ ഭേഗേതിക്കു അനുക്ലമായി പ്രസ്താവിക്കപ്പെട്ടിരിക്കുന്ന ഒരു പ്രധാന സംഗതി, ഫ ഫ ഫ ധന ഫ ന്ഫ ാംന്ഫ-ക്കു ശേഷം ഉത്തമർണ്ണന്റെ സന്മനസ്സിന്റേയും സൗ ഹാർദ്ദതയുടേയും ഫലമായിട്ടുണ്ടാകുന്ന ഒരു പ്രമാണം പുതുക്കി എഴുതാൻ ഇടവന്നിട്ടുള്ളതെന്നാകുന്നു. ഈ ബില്ല് ഇവിടെ കൊണ്ടുവന്നിരിക്കുന്നത്, ഏതൊരു മനസ്ഥിതിയോടുകൂടി ഉത്തമർണ്ണനും അധമർണ്ണനും മുമ്പു പെരുമാറിവന്നുവോ ആ സൗഹൃതി നിലനിറുത്തിക്കൊണ്ടുപോയി രാജ്യ ത്തു സമാധാനമുണ്ടാക്കണമെന്നുള്ള ഉദ്ദേശത്തോടുകൂടിയാണ്. ഈ ഉ

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ദ്ദേശത്തെ പാലക്കണമെന്നുള്ള ഒരു മനോഭാവം ഈ രാജ്യത്തെ ഉത്തമ ണ്ണന്മാർക്കുണ്ട് ആ നിലക്കു ബില്ലിനെ അപ്പാടെ അവർ സ്വാഗതം ചെയ്കയാണു വേണ്ടതു്. ബില്ലിലെ തത്വം അധമർണ്ണനു അനുഗ്രഹം കൊടുക്കുക എന്നുള്ളതാണെല്ലോ. അധമർണ്ണനോടുള്ള സ്നേഹം കൊണ്ടാണു പ്രമാണം പുതുക്കിയതെങ്കിൽ അതേ സ്നേഹഭാവത്തോടെ ഈ വകുപ്പിനേയും സ്വീകരിക്കണമെന്നാണു ഞാൻ പറയുന്നതു്.

Mr. M. K. Ananthasiva Aiyar: പ്രമാണം പുതുക്കിയെഴുതാതെ കേസു കൊടുക്കുന്നവർക്കു കോർട്ടുഫീസ്, അതിന്റെ പലിശ, പലിശക്കു പലിശ ഇവയെല്ലാം കിട്ടുകയില്ലെ?

Mr. Thomas Chandy Mukkadan: കിട്ടുമായിരിക്കാം. അങ്ങിനെ ചെയ്യാതിരുന്നതു ഒരു സന്മനസ്സുതന്നെയാണെന്നു സമ്മതിക്കുന്നു. എന്നാൽ അനുകാണിച്ച ആ സന്മനസ്സു് ഒന്നുകൊണ്ടുതന്നെ അനുഗ്രഹിക്കപ്പെട്ട അധമർണ്ണൻ വീണ്ടും അനുഗ്രഹീതനാകാനുള്ള അവകാശമുണ്ടെന്നാണു ആ വാദത്തിനെതിരായി എനിക്കു പറവാനുള്ളതു്.

Mr. Kalloor Narayana Pillai: മൻപു് ഒരാൾ ൧൦൦൦ രൂപ കടംകൊടുത്തു. അതുകൊണ്ടു അയാൾ ഉത്തമർണ്ണനും കടംവാങ്ങിച്ചവൻ അധമർണ്ണനും ആയിത്തീരുമൊ? ഉത്തമർണ്ണൻ, അധമർണ്ണൻ എന്ന പദങ്ങളും തന്നെ ശരിയാണോ?

Mr. Thomas Chandy Mukkadan: കടം കൊടുക്കുന്നവനേയും വാങ്ങുന്നവനേയും പറഞ്ഞു സാധാരണയായി ഈ പദങ്ങളാണു ഉപയോഗിക്കുന്നതു്. കേട്ടാൽ എല്ലാവർക്കും മനസ്സിലാകുമെന്നുവച്ചു് ഞാനും ആ പദങ്ങളും ഉപയോഗിച്ചതാണു്. ൧൯൫൬ ധനു ൨൩-ാം നു-ക്കു മുൻപു ഉണ്ടായ കടങ്ങൾക്കു ആശ്വാസം കൊടുക്കുന്നതിനുവേണ്ടിയാണു പ്രധാനമായി ഈ ബിൽ രൂപവൽക്കരിച്ചതു് എന്നിരിക്കെ, അതിന്റെ മൗലികമായ തത്വത്തെ സാരമായി ബാധിക്കുന്ന ഈ ഭേദഗതിയെ എതിർക്കാതെ തരമില്ല.

Mr. Puthupally S. Krishna Pillai: Sir, I oppose the amendment. It seeks to omit the existing Explanation to Clause 3 and makes a provision to the effect that the Act will not apply to any debt covered by any document after the said date, whether it be in renewal of a past debt or a fresh loan. Even with this provision banks seem to think that they can evade the provisions of clause 7. Clause 3 reads as follows :—

> "Subject to the provisions of Sections 4 to 7 this Act shall apply to all debts incurred before the 23rd of Dhanu 1112 and subsisting at the commencement of this Act."

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[Mr. Puthupally S. Krishna Pillai]

This is read with clause 7 which provides that—

> "Nothing contained in this Act shall affect any liability arising from any transaction with a Bank if the interest charged in respect of the liability does not exceed 9 per cent per annum."

The Bank poeple are busy going about threatening immediate enforcement of their claims if the debts are not renewed. This is not justifiable. It is an attempt to overreach the legislature. In the other House it was stated that gold securities pledged with the Banks will be sold away immediately and appropriated towards debts due to them and that such conduct should be penalised. It was said that it was an honoest debtor who comes forward and acknowledges his debts. He does not propose to put the creditor to any additional expenditure in connection with the loan that has been advanced to him. Mr. Ananthasiva Aiyar says that such a debtor should be penalised. In the event of the debtor making the creditor sue for the money, and incur additional expenditure for payments to the Vakil, process fees, and for half a dozen other purposes, the members are prepared to treat with the debtor, but the docile and the honest are to be penalised. It has to be noted that in the case of a renewal the debtor will not put the creditor to any unnecessary expenditure such as I have said.

Mr. M. K. Anantasiva Aiyar: If a creditor had filed a suit, is he not entitled to get the interest from the date of the decree under this Bill?

Mr. Puthupally S. Krishna Pillai: True, but there is a limit within which he can. The Hon'ble members must take the possibility of the other contingency also, namely, when a debtor is compelled or coerced into executing a renewal. If the creditor were to tell a debtor that if no acknowledgment is made he would immediately place all his properties, whether movable or immovable or both, under court attachment, the debtor may execute a renewal. This may not amount to personal coercion. Suppose a creditor has obtained such a renewal ; Is the debtor concerned to go without protection ? In either case renewed debts should not be put on a different basis altogether. Hence the provisions. It clearly excludes any fresh transaction entered into after the commencement of this Act or Act III of 1112.

President: The question before the House is

> "In Clause 3 delete the Explanation and add to the main Clause before the fullstop, the following."
>
> "But shall not apply to any debt covered by any document executed after the said date."

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The amendment was put to vote and declared lost.

Mr. N. Krishna Aiyar : Sir, I move—

"In Clause 3 delete sub-clause (2)."

This seems to be a new provision introduced at the third reading in the Assembly. Such a provision was not found either in the original Bill or in the Bill approved by the Select Committee. The existence of such a provision cuts at the root of one of the fundamental exclusions. This Section extends the applicability of certain Sections of the Act such as 18, 19, 20, 21 and 23 which relate to the rural insolvency provisions, and also the provision regarding arrest to transactions that were entered into even after the 23rd Dhanu 1112. Therefore it does not limit the exception to old transactions. It even affects all future transactions and therefore seriously affects even future credit. On reading Sections 18, 19, 21 and 23, we find that, if a person is unable to pay his liability as fixed by clauses 8 and 9, if he is unable to pay even 70 per cent of his debts, he can go to a court and apply for getting ½ of his properties of Rs. 3,000 free of all *encumbrances* whatever be the amount that his creditors may get.

Immediately one-fourth of his assets are left to him, and 75 per cent left are distributed among the creditors in proportion to certain preferences mentioned in clause 19. So that, even if any amount has to be advanced in future, that will be subject to this clause and subject to the danger of being cut down according to Sections 18, 20, 21 and 23 and shall also be subject to the law against any personal execution as provided in Section 23, and therefore, it is that I submit that sub-clause 2 has to be deleted not only in the interests or for the purpose of protecting transactions entered into after 23rd Dhanu 1112 absolutely, but also to protect future credit.

Mr. M. K. Ananthasiva Aiyar : I second it.

Mr. Puthupally S. Krishna Pillai : I am afraid, the hon. member has not fully grasped the significance of the proposal that he has made. It is stated in sub-clause 2 of clause 3 "Notwithstanding anything contained in sub-section (1) or Sections 4, 5, 6 and 7 the provisions of Sections 18, 19, 20, 21 and 23 shall apply to all classes of debts whether incurred before or after the 23rd Dhanu 1112". My friend has said that it must be omitted. What are those Sections to which it is stated that the debts incurred on or after the 23rd Dhanu 1112 shall apply. They are Sections 18, 19, 20, 21 and 23. It is not applicable to Section 16 but applies to Section 18. This means that after entertaining the petition, the Court shall have power in determining the extent of the liability

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[Mr. Puthupally S. Krishna Pillai]

whether incurred before or after the date. For the purpose of apportioning the properties of the debtor, it is necessary to ascertain the extent of the debtor's debts, whether incurred before or after 23rd Dhanu 1112. If the amendment is adopted the Court will have no power to enquire into the exact amount that is due in respect of a debt incurred after 23rd Dhanu 1112. Why should the Court ascertain it? In order to see that no injustice is done between one creditor and another when the certain assets are distributed *pari passu* amongst all his creditors the Court is empowered to decide the questions relating to all debts. Is it the intention of the member that the Section should apply only to persons who have not incurred any debt after 23rd Dhanu 1112 and who do not incur any debt after the passing of this Act?

Section 19 relates to the power of the Court to stay execution of certain decrees. What is the use of staying decrees passed in respect of debts incurred before 23rd Dhanu 1112 when the court is not empowered to stay those with regard to debts incurred after that date? The very purpose of the Act would be defeated. The same must be said about section 20. It is for the protection of the creditors that this provision is made. It is not for any other purpose.

Mr. N. Krishna Aiyar: Does the honourable Legal Remembrancer say that Section 19 does not affect the debts incurred after 23rd Dhanu 1112.

Mr. Puthupally S. Krishna Pillai: It will be prejudicial to the interests of the creditor in this way, that he will also have to share *pari passu* with the creditor who has advanced money before 23rd Dhanu 1112. What is the other way of protecting that man's rights?

Mr. N. Krishna Aiyar: If it is the intention of the Act to protect transactions entered into after 23rd Dhanu 1112, preference must be given to transactions entered into after that date.

Mr. Puthupally S. Krishna Pillai: That is to say, create a statutory charge in respect of debts incurred after 23rd Dhanu 1112 and treat prior debts incurred by such a person on a different footing altogether. If that be the case, every creditor who has advanced money before 23rd Dhanu 1112 can really be defeated. 'A' may execute a document in favour of his brother-in-law and say that it is a debt incurred after 23rd Dhanu 1112. He may bring into existence any number of such documents.

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Mr. N. Krishna Aiyar: I never suggested that debts incurred after 23rd Dhanu 1112 should be made a statutory charge and it is not possible. What I am saying is that if the intention of the Act is to protect transactions entered into after 23rd Dhanu 1112, there is no meaning in saying that one fourth of his assets shall not be liable for that amount.

Mr. Puthupally S. Krishna Pillai: It is the intention to protect the interests of persons who have advanced money after 23rd Dhanu 1112. But it is not the intention of the other House to allow the provision to be worked out in such a way as to destroy the interests of honest creditors. While protecting one class of creditors, it is not the intention to defeat the interests of other class of creditors. Section 16 confer jurisdiction analogous to insolvancy jurisdiction. The only way of doing it is by empowering the court to deal with all debts. I oppose the amendment.

The amendment was put to vote and lost.

The question that clause 3 stands part of the Bill was put and carried.

The clause was added to the Bill.

President: It is now quarter to four and there are about 50 amendments more. Is it the pleasure of the House to sit today after 5 o'clock until the whole Bill is finished or would the House think of some other expediency? I would like to have suggestions on the matter.

Mr. Kottur Kunjukrishna Pillai: If all the amendments are not finished by 4-30, I think we will have to sit after 5 or 5-30 P. M. till we finish the business.

Mr. K. K. Kuruvilla: We must sit after 5 and finish the Bill.

President: There is a meeting of the Public Accounts Committee today after 5 P. M. What about tomorrow or day after tomorrow after 5 P. M.? Will that be all right?

Mr. Kottur Kunjukrishna Pillai: We have no objection.

President: If the Bill is not finished by 4-30 P. M. today, then we will sit after 5 or 5-30 P. M. from day after tomorrow and finish the Bill.

Mr. K. K. Kuruvilla: Sir, I beg to move that in clause 4 the whole sub-clause (*e*) may be deleted. Sir, as a layman it is very difficult to find out exactly the debt or liability arising out of a breach of trust. And I cannot see why such debts should have this preferential treatment along with dues due to Government. Moreover we don't give this privilege to money got by theft, bribery or corruption. My wonder is why those also should not be included in this exception clause.

The amendment fell through for want of a seconder.

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Mr. N. Krishna Aiyar: Sir, I beg to move the following amendment. In clause 4 sub-clause (*h*), add "and any debt incurred for purposes of trade."

As the clause stands it excludes any debt which represents the price of goods purchased for any purpose whatsoever. Sir, here I don't propose to repeat the arguments which I have already advanced in regard to this matter this morning. Anyhow the clause exercises considerable hardship to those who have advanced money for trade. In fact the trader acts only as a middle man. To him money is advanced and he gets not only the investment but something more as profit. In view of this is it not fair and just that the source should be replenished. By this narrow exclusion the scope of the provision is restricted so as to affect only the debts incurred for the purchase of goods. This is defective in principle. It would also seriously hamper the progress of trade. On both these grounds I move this amendment and commend it for the acceptance of the House.

Mr. Puthupally S. Krishna Pillai: Sir, I am prepared to abide by the decision of the House on this question. At the same time I may explain the implications contained in the amendment. I have already stated that it does not apply to any debt incurred on or after the 23rd Dhanu 1112. Mr. Krishna Aiyar seems to argue that if the price due for articles purchased would not come within the purview of the Bill, should not the money advanced for the purchase of those articles be also excluded? As a matter of fact the non exclusion is not likely to affect trade or trade or traders bank and bankers who advance money to present or future traders. Traders who operate on money accounts do always take their transactions once a year and in many cases in every market. He takes the money from the Bank and advances it for the purchase of goods. Within a short period the whole loan is repaid and he takes further loans. That process goes on as long as he continues the business. And in the case of a trader who is carrying on business on the date of the commencement of the Act I am quite sure that the lender would not be affected, because there would not be any residue left of the old transactions before the 23rd Dhanu 1112. Even if there be he would not bargain with his creditor lest his credit should suffer.

Mr. M K. Ananthasiva Aiyar: But there is nothing to prevent him from borrowing from another creditor.

Mr. Puthupally S. Krishna Pillai: That is to say he stops his transactions with one money lender and goes to another money lender? Certainly he must be an enterprising debtor. But the second creditor will also be an equally shrewd man. Any way,

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this applies to the debts incurred for trade purposes. In the case of such debtors the debts may be considered as un-realisable. But is it not advantageous to the creditor to whom a good portion of the money advanced four years back comes at least in instalments ? It is on a consideration of these circumstances that such debts were not excluded. If these are all the arguments which Mr. Krishna Aiyar has to advance I must oppose the amendment.

The amendment was put to vote and lost.

Mr. N. Krishna Aiyar: Sir, I beg to move the following amendment :—

In Clause 4, sub-clause (j) for the words : "23rd day of Dhanu 1112" substitute the words "1st day of Chingam 1105" or in the alternative substitute the words "1st day of Chingam 1107".

Sir, the arguments that I have to advance with regard to this amendment are the same that I have already given on behalf of another amendment in Clause 3. If the House thinks that those arguments may be accepted for this amendment also I move it and commend it for the acceptance of the House.

Mr. Puthupally S. Krishna Pillai : Sir, I oppose it. The House has already expressed its decision on the inclusion of debts till a particular date. In clause 3 we have decided that it shall apply to all debts before the 23rd Dhanu 1112. This amendment proposes that it shall not apply to a portion of the debts incurred during the period. It does no one any good. It may be out of order. But I don't solicit a ruling from the Chair in this case. I am only pointing it to the honourable members. Sir, the member ought to have considered well before bringing such amendments and moving them in this House.

Mr. Kochikal P. Balakrishnan Tampi: Sir, is it in order for the Legal Remembrancer to preach to us on our duties ?

Mr. Puthupally S. Krishna Pillai : Every member of this House is entitled to have his say. Therefore as a member I also exercise the privilege.

Mr. N. Krishna Aiyar ; Sir, as a personal explanation I may be permitted to say a few words. The remarks made by the Legal Remembrancer are so uncharitable. At the time of sending these amendments the mover did not know the decision of the House with regard to any of them. It was only after the amendment was moved and rejected that the member was conscious of it.

Mr. Puthupally S. Krishna Pillai: I do not complain about the honourable member's sending of the amendments. The House does not concern itself with that. But when a motion has been moved and rejected I wanted to know whether it is in order to bring forward a similar motion.

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Mr. N. Krishna Aiyar : Sir, a word of personal explanation. It was not with any object of moving the same amendment over again that I moved this motion. Perhaps there is an overlapping of the same subject matter. The learned Legal Remembrancer could see from the facts that I never cared with regard to this motion to repeat the arguments which I once advanced with regard to the other motion and this I formally told the House when moving this motion. Under these circumstances it is really sad that he should have become so vehement over my moving this amendment.

Mr. M. Govindan: Sir, is it not open to the honourable member to justify his repetition of the same suggestions by a motion so that he may have another chance of this House considering the matter?

Mr. N. Krishna Aiyar: That is exactly my position.

Mr. Puthupally S. Krishna Pillai : Sir, in that respect we are governed by the Standing Orders. The relevant standing order provides that no matter once decided by the House shall be reagitated in the same session. If that be the rule there can be no reconsideration on the same day. It is only that point that I stress.

The amendment was put to vote and declared lost.

Mr. N. Krishna Aiyar: Sir, I move that

> "In Clause 4, add another sub-clause (k) as follows :
> any liability of a person whose total debt at the commencement of this Act exceeds Rs. 5,000 or does not exceed eighty per cent of his entire assets."

In the course of my general observations, I have adverted to various aspects of the question and appealed to the honourable members of this House pointing out the necessity of restricting the applicability of the provisions of this Bill to the liability of a person whose total debt at the commencement of this Act does not exceed Rs. 5,000. I also wish to remind the honourable members of the valuable remarks made by the Dewan and the Government member Mr. M. Ramachandra Rao and also of the statistics contained in the Agricultural Debt Relief Committee's Report. All these things would show that by limiting the provisions to a person whose total liabilities do not exceed Rs. 5,000, it will give ample relief to the majority of the people and at the same time reduce to some extent the volume of the loss on the other side. That is the only reason why I move and press for an amendment of this kind.

Another reason why I press for this pecuniary limit is that even under the existing Act, though there is no pecuniary limit prescribed there is a provision under which the pecuniary limits of the jurisdiction of the Conciliation Board was left to be determined

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by the Government. Government accordingly fixed a limit and the applicability of the present Act has been made to operate only in the case of persons whose total liability does not exceed Rs. 5,000, so that the principle of the pecuniary limit with regard to the applicability and extension of the scope of the relief has been recognised and conceded in the present Act and it has been recommended by many eminent persons. Therefore, I believe that an amendment of this nature would not only establish the principle of the maximum benefit with the minimum injury, but there would also be a practical possibility of the relief measures being carried into effect, because there would be some agency to advance the money, which alone is the final remedy. Unless the reduced debt is paid, there can be no finality and to bring some finality, it is necessary and expedient that some provision for the payment of the debt will have to be found. Now, the Debt Relief Committee thought that it would be hazardous on the part of the Government to undertake all liabilities. There is time enough for this House and other people to consider and bring forward suggestions which the Government may consider so that the solution of the problem may be reached by finding some agency to advance the money. It is to make the working of this practical that I say that a pecuniary limit of Rs. 5,000 should be fixed.

Another part of my amendment relates to the repaying capacity of the debtors. If a debtor has got ample assets, that is more than one-fourth of his liabilities as a margin of surplus, if the liabilities come to only 80 per cent of his assets and if the remaining 20 per cent is made free of all liability, it is only just on his part to leave 80 per cent of his assets to his creditors; such persons need not be given the same relief. Therefore, it is, that I have worded my amendment as "any liability of a person whose total debt does not exceed 80 per cent of his entire assets". I therefore move my amendment for the acceptance of the House.

Mr. M. K. Ananthasiva Aiyar: I second the amendment. The success of the relief measures depends upon repayment of the debt in cash. Unless there is a payment in cash, I do not think we could tackle the problem without injuring one party. Where is the money to come from, is the question. If it is a small amount that is to be liquidated, well, we may find a number of other creditors who may help the debtor. We may in that case find some financial agency, whereas if we are to go and support the debtors who are indebted to the extent of lakhs, nobody will be able to raise funds to liquidate their debts. It has been found from statistics that 96·5 per cent of the debtor population in the State

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[Mr. M. K. Ananthasiva Aiyar.]

have got debts below Rs. 5,000. Under such circumstances, even if we leave out those debtors who have got debts exceeding Rs. 5,000, the people whom we leave out would form only 3 5 per cent of the debtor population. Considering the magnitude of the amount that they have borrowed it is better for us to leave them to look after themselves.

So, I support the motion.

Mr. Puthupally S. Krishna Pillai : I oppose the motion. Sir, this matter was discussed at great length in the other House. But as this House is not bound to take notice of what has done in the other House, I am compelled to repeat the main reasons that induced the other House to come to this conclusion. Government, just as they have decided not to choose between one debtor and another on occupational grounds decided not to make any distinction hard on the question of his debt. If a small debtor was hit hard as a result of the economic depression in 1107, a big debtor must also have been hit just as hard if not harder, as the small debtor. The economic depression did not pick and choose ; it affected all people alike. It was not the case that one man who borrowed Rs. 10,000 was able to sell his cocoanuts at the rate of Rs. 10 per hundred and another who borrowed Rs. 1,000 could sell them only at Rs. 2 per hundred. The economic depression affected all people alike irrespective of the sum that they had borrowed.

With these words, I oppose the amendment.

The question that :

"In Clause 4, add another sub-clause (k) as follows :
'any liability of a person whose total debt at the commencement of this Act exceeds Rs. 5000 or does not exceed eighty per cent of his entire assets.''

was put to vote and declared lost.

Mr. N. Krishna Aiyar : Sir, I move that :

"In Clause 4 add another sub-clause as follows :
'any liability of a person whose total liability at the commencement of this Act is only about three-fourths of his entire assets.''

Chairman : You do not move amendment No. 9 ?

Mr. N. Krishna Aiyar : No, I do not move amendments numbers 9 and 10. I have clubbed these two amendments together.

Sir, the principle underlying the amendment which I have now moved seems to be embodied in clause 19 of the Bill, and would therefore, I believe, be acceptable to the mover of the Bill, because according to clause 19 it is the object of the Bill to leave one-fourth of the assets free of all encumbrances to the debtor. If

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therefore the assets of the debtor are in proportion to his debts in the ratio of 4:3, *i. e.*, if it is found that his liabilities extend only to 75 per cent. of his assets and that he has got a clean margin of 25 per cent. free of all liabilities, there is absolutely no necessity to bring the applicability of this Act to embrace such cases also. This will only be in conformity with the principle embodied in clause 19 of the Bill. I therefore, commend the motion for the acceptance of the House.

Mr. M. K. Ananthasiva Aiyar: I second it.

Mr. Puthupally S. Krishna Pillai: Sir, I oppose the motion. It is said that "any liability of a person whose total liability at the commencement of this Act is only about three-fourths of his entire assets." What is the method by which this can be ascertained. "Whose total liability is only *about* three-fourths of his entire assets"—that is, a little less than three-fourths is acceptable to Mr. Krishna Aiyar. Can any statutory provision be more indefinite?

It is very difficult to decide whether a debtor's debt is *about* three-fourth of his assets. Who is to assess the value?

Mr. N. Krishna Aiyar: If it is possible for a Court to exactly ascertain 25 per cent of the debtors' assets is it not much more convenient to ascertain roughly about three-fourths of his assets? In fact that is more feasible and possible.

Mr. Puthupally S. Krishna Pillai: That is where the debtor applies to the court. Suppose it falls short of the estimated one-fourth, I think the debtor will accept it. There can be no difficulty in the working of that provision. But here we have to determine whether the aggregate of his debts is only about three-fourths of his assets, before the debtor can decide whether he can pay under the Act. When will this question be decided so that the debtor may pay his first instalment. The Court may decide whether the debtor is entitled to the benefits of the Act, but the inquiry will be protracted. A debtor's debt may be easily ascertained, but the value of his assets will be fluctuating. It is not to the advantage of any to leave such a matter for decision after a fight. To allow the debtor and the creditor to fight and see whether one is out of the Act or within the Act, would be substantially denying the benefits to both.

Mr. M. K. Ananthasiva Aiyar: May I know from the member whether this principle has been accepted in the case of Usufructuary mortgage?

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Mr. Puthupally S. Krishna Pillai: After all how many debtors are there who have entered into transactions of the nature referred to there? Such transactions are only very few in Travancore. The provisions are for payment. It enables him to pay in order that he may liquidate his debts. But to assertain whether he will be allowed to pay under the Act, he has to fight till the naughty problem is solved. He may have executed some documents in the name of his wife, some benami and some real. The Court has to make an elaborate enquiry into the nature and purpose of all these transactions and then to ascertain whether his liabilities are only about three-fourths of the assets. It is a very very difficult matter.

The Amendment was put to vote and declared lost.

Mr. N. Krishna Aiyar: I move that in Clause 4 add another sub-clause as follows:

> "any liability of a person whose total liability at the commencement of this Act is only about 2/3 of his entire assets".

I am going one step further and ask the indulgence of the House to see whether the liability of a person whose total liability at the commencement of the Act is only two-thirds of his assets, shall not be excluded.

Mr. Puthupally S. Krishna Pillai: Is it possible to ascertain a 2/3 than a ¾th.

Mr. N. Krishna Aiyar: By saying about 2/3rds I maintain it is much easier to ascertain about 1/3 or 2/3 than the exact figure. It is therefore deliberately I have worded it as about 2/3 of the entire assets. It only shows that if his assets are nearly one and a half times his liabilities or in other words there is a respectable margin for him even after paying all the creditors in full such persons should be excluded from the operation of the Bill. He is not entitled to relief and he has no legitimate claim for relief when he has a clean margin of a third of his assets.

Mr. M. K. Ananthasiva Aiyar: I second the motion.

Mr. Puthupally S. Krishna Pillai: To me 2/3rds is the same as 3/4th. I oppose the motion. All the arguments advanced against the 3/4th must prevail when 2/3rds is concerned. I do not know why the learned member is persisting in limitation of 2/3rds, 3/4ths, 1/2s and about annual incomes and all the rest. I am opposed to all these limitations. The principle underlying the Bill is not to fix any limitation. If we can assess 2/3rds why can't we assess one-half? The real position is, I oppose the principle of fixing any limit. I have no particular opposition to 3/4ths or any particular fascination for 2/3rds. My objection is in fixing any limit. I hope that my friend will not move the other amendments.

Chairman: It is only a hope.

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Mr. V. Sankara Menon (*Trivandrum and Nedumangad cum Chirayinkil*) : Can an honourable member oppose an amendment that is not moved ?

Chairman : There was no opposition of the amendment which was not moved. The Legal Remembrancer was only saying the general trend of his arguments.

Mr. M. Govindan (*Nominated*) : Is it in order for honourable member to express an argument in anticipation of an amendment ?

Mr. Puthupally S. Krishna Pillai : A word by way of personal explanation. I made that statement simply to cut short my argument and every argument advanced against 3/4ths will be valid against 2/3rd or against any other fraction.

Chairman : You are perfectly in order.

Mr. M. Govindan : Is it in order for the honourable member to say that he will advance arguments against subsequent amendments ?

Chairman : It is perfectly in order. He can say his intentions. But such intentions will be enforced when a particular amendment is moved.

The amendment was put to the House and declared lost.

Mr. N. Krishna Aiyar : I move that

"In Clause 4 add another sub-clause as follows:—

"any liability of a person whose total debt at the commencement of this Act is only about one-half of his entire assets."

Although the objection to this amendment has been already answered in anticipation, I think I am justified in bringing this amendment and appeal to the reason of the House. Section 19 formulates the principle by which when a debtor applies to court he will be given one-fourth of his assets free of all encumbrances. Similarly, I ask, if a creditor is able to show that the assets of the debtor at the time were double his liabilities, is it not entitled to some consideration. If it is proved to the satisfaction of the authorities that the debtor does not at all stand in need of any concession, that he has a 100 rupees worth of assets for every 50 rupees debt, is it not absolutely reasonable that the creditor should be afforded relief by enabling him to get back the full amount advanced. When the principle of leaving a certain portion of the assets is introduced in one section of the Bill, I believe it will be perfectly legitimate to say that a debtor be allowed to enjoy one-half of his assets entirely free of all encumbrances and the balance of his assets be distributed to the creditors. According to the present Insolvency Act, it is only in cases where the liabilities of a man exceeds his assets, he will go to Court. Act III of 1112 empowers both the debtor and the creditor to go to the Conciliation

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[Mr. N. Krishna Aiyar.]

Court and ask for a settlement of accounts. But by this Bill relief is given only to the debtor. Just as the debtor is anxious to close his liabilities, the creditor is also anxious to close his accounts by the aid of a machinery which may be formed for the working of this Act. So, if a creditor shows that the debtor has ample assets to pay back his debts, is it not right to.....

Mr. Kochikal P. Balakrishnan Tampi: When the House had advocated that it is averse to the principle of granting relief to the people according to their ability to pay, and the House has resolved that the Bill will apply to all debtors irrespective of his assets, is it in order to introduce a number of irksome fractions without an end? The honourable member can go on talking about these amendments—unfortunately there are numerous fractions which he can use.

Chairman: The honourable member need only state the point.

Mr. Kochikal P. Balakrishnan Tampi: I am only amplyfying my point. I rise to a point of order that the Chairman should rule that when the House has once expressed itself one way or the other, is it in order for the honourable member to get hold of another fraction and introduce a further amendment?

Chairman: The honourable member is in order, because the House has not decided on the general principle or on the limitations of his fractions. So he is entitled to introduce any number of fractions and technicalities, I rule the amendment is in order.

Mr. M. K. Ananthasiva Aiyar: I second it.

Mr. Puthupally S. Krisna Pillai: Sir, I oppose the amendment for the same reason.

The amendment was put to vote and declared lost.

The House adjourned at 4-30 P. M.

A. GUNAMONY,
Secretary to the Sri Chitra State Council.

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